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## 1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA ) 23MR566  
5 )  
vs.6 MICHAEL RONCONE, Rochester, New York  
7 Defendants. December 21, 2023  
8 - - - - - X 10:30 a.m.  
DETENTION HEARING9  
10 TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE ELIZABETH A. WOLFORD  
11 UNITED STATES DISTRICT JUDGE12 TRINI E. ROSS, ESQ.  
13 United States Attorney  
14 BY: NICHOLAS COOPER,, ESQ.  
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2  
3 \* P R O C E E D I N G \*  
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6 THE CLERK: We're on the record in the  
7 matter of the United States versus Roncone, 23MR566.

8 THE COURT: All right. Good morning,  
9 everybody. Let's have appearances for the record.

10 On behalf of the government?

11 MR. COOPER: Good morning, your Honor. For  
12 the United States, Nicholas Cooper and paralegal Karen  
13 Champoux.

14 MR. DELL: Good morning, your Honor. Paul  
15 Dell for Mr. Roncone.

16 THE COURT: Good morning. What is your  
17 first name, Michael?

18 THE DEFENDANT: Michael.

19 THE COURT: Michael Roncone?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: My name is Judge Wolford and  
22 I've been assigned to your case. And you are  
23 represented by Mr. Dell?

24 THE DEFENDANT: Yes.

25 THE COURT: And we have Officer Whitcomb and  
Officer Nenni from Probation.

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So this is an appeal from Judge Schroeder's release order in this case. Well, I'll state on the record first what I've received and reviewed. I have the Notice of Motion that was filed by the government at docket 1 in case No. 23MR566. I've reviewed the Criminal Complaint that was filed at docket 1 in case No. 23MJ168. I have the Pretrial Services Report that was prepared on December 14, 2023 by the probation office. And I've reviewed the transcripts of the detention hearing before Judge Schroeder that occurred on December 18, 2023, and that is filed at docket 6 in case No. 23MJ168. And I believe that is it. So, Mr. Cooper -- well, I should state on the record, I've also been handed a binder that appears to be Government exhibits, but I'll turn it over to Mr. Cooper, it's the government's appeal. You may proceed whenever you're ready.

19 MR. COOPER: Yes, Judge, thank you. That  
20 binder is a duplicate of a binder that was used in front  
21 of Judge Schroeder and that was provided -- I believe  
22 Mr. Dell actually had counsel standing in for him at  
23 that appearance in front of Judge Schroeder. And I  
24 spoke with Mr. Dell before today's appearance, and he  
25 has a copy of all of those exhibits that have been

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2 handed up to your Honor.

3 THE COURT: You have a copy of all of the  
4 exhibits?

5 MR. DELL: Yes, I do. As far as having  
6 stand in for me, that is because I had a jury  
7 deliberating in state court.

8 MR. COOPER: I certainly wasn't --

9 MR. DELL: I just wanted to clarify that.

10 MR. COOPER: Okay.

11 | THE COURT: Go ahead.

12 MR. COOPER: Yes, Judge. The government

13 moved for detention under 3142(f)(1)(a), (f)(1)(E),

14 (f) (2) (A) and (f) (2) (B). Where I would like to start,  
15 Judge, is with the serious risk that this person will  
16 flee.

17                   The Bail Reform Act allows your Honor to  
18 consider information that is outside of the four corners  
19 of the Complaint. And I would submit that there are  
20 likely cases where there is not much outside of the four  
21 corners of the Complaint, and there are other cases  
22 where there is a large volume of information for the  
23 Court to consider outside of what's currently charged.  
24 It's the government's position that this is one of those  
25 cases. Specifically the serious risk that this

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2 defendant will flee does not arise, in my view, out of  
3 the 992(g)(3) that the defendant is charged with right  
4 now. As the Court is well aware, it's not a presumption  
5 case, there is no statutory mandatory minimum associated  
6 with that offense. The statutory maximum is 15 years.  
7 And the Guidelines for the defendant would be in the  
8 neighborhood of two to four years imprisonment. And so  
9 the serious risk that the defendant will flee arises out  
10 of something else entirely.

11 On December 7th, 2023, the FBI and Homeland  
12 Security investigations executed search warrants at five  
13 different locations simultaneously in Buffalo and  
14 Wellsville, New York. This defendant's residence, the  
15 Rare Breed Motorcycle Club clubhouse in Buffalo, and the  
16 Rare Breed Motorcycle Club property/clubhouse in  
17 Wellsville were all searched simultaneously.

18 Separate and apart from what was recovered  
19 during the execution of those search warrants, and we'll  
20 cover that, I'd like to point out for the Court to focus  
21 on what was contained in the attachment B of those  
22 search warrants, because the attachment B is left when  
23 the warrants are executed and they are in the possession  
24 of the defendant.

25 THE COURT: Let me make sure I'm following

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2 the government's argument. Because the government  
3 executed search warrants and left the search warrant  
4 that disclosed in attachment B what the scope of its  
5 investigation was, all government conduct there, that  
6 means that the defendant is likely to flee?

7 MR. COOPER: You're following me exactly  
8 correctly, Judge, and so we're required in attachment B  
9 --

10                   THE COURT: Do you know of any case that has  
11 ever recognized that because the government decides to  
12 execute a search warrant and disclose before charges are  
13 filed what the scope of its investigation is, that then  
14 the Court would be proper to conclude that that  
15 heightens the risk of flight on the part of the  
16 defendant?

17 MR. COOPER: Judge, I'm not relying on a  
18 case, I don't have one. What I'm asking you to do is  
19 make a logical inference that when a person is aware  
20 that they are being investigated for a much more serious  
21 offense than the offense charged in the Complaint --

22 THE COURT: Don't you think that would turn  
23 the Bail Reform Act on its head?

24 MR. COOPER: No I don't think that, Judge.

THE COURT: All right.

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2 MR. COOPER: I think this is a pretty  
3 unusual set of circumstances.

4 THE COURT: It's an unusual set of  
5 circumstances in the sense that the government has  
6 charges that nobody is going to argue that possessing  
7 firearms while being a marijuana user is a serious  
8 offense, well, at least nobody reasonable would argue  
9 that, so what is unusual here is the government is  
10 seeking to expand, basically, the scope of what the  
11 Court considers in determining whether or not to detain  
12 somebody pretrial, and it's using its own steps in the  
13 investigation to prove that. I think that kind of loses  
14 sight of what a Court is supposed to look at. I don't  
15 quarrel that there is case law out there that says you  
16 can look beyond what the charges are. Absolutely. I  
17 agree with you. But I don't think there is a case like  
18 this, Mr. Cooper, not one that I've looked at where  
19 essentially the government is saying because we executed  
20 a search warrant and then disclosed what we're looking  
21 into, that means that there is really a significant  
22 flight risk here. I mean, I mean, under those  
23 circumstances, the government would have control over  
24 whether or not somebody is a potential flight risk any  
25 time they disclose the scope of their investigation to

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2 somebody.

3                   MR. COOPER: Judge, in instances where the  
4 government is investigating the murder of a federal  
5 witness, then those circumstances would exist. I don't  
6 understand. Is the Court inferring that the government  
7 would do that in bad faith to ask for somebody to be  
8 detained?

16 MR. COOPER: What I'm arguing to the Court,  
17 and I understand if the Court disagrees, but what I'm  
18 arguing to the Court is that the facts, as they exist  
19 now, are that this defendant is aware of what was being  
20 searched for in that residence and what it's related to  
21 and that is a very serious offense, what it's related  
22 to. And because those are the facts, regardless, I  
23 understand the Court's position, that is based on  
24 government action, and we have to further our  
25 investigation, and that means executing search warrants.

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2 And so it certainly wasn't designed to one day stand in  
3 front of your Honor and make this detention argument.  
4 That is not what happened. We execute that search  
5 warrant because we investigate crimes, almost no greater  
6 crime than the murder of a federal witness. When we  
7 execute that search warrant, law enforcement will leave  
8 that copy of the warrant, with attachment A and  
9 attachment B, and that is what they did. All I'm  
10 arguing to the Court is that now, the facts on the  
11 ground as they exist, are that this defendant is aware  
12 of that. And so separate from, you know, the argument  
13 that I make on a 841(b)(1)(A) case with a 924(c), I  
14 argue to the Court all of the time, Judge, this person  
15 is facing 15 years mandatory minimum time, that poses an  
16 significant incentive to flee.

17 THE COURT: But there are charges filed.

18 MR. COOPER: And I recognize the distinction  
19 between there being charges filed. And in the --  
20 generally when charges are filed is the first time a  
21 person becomes aware they are under investigation.  
22 Because this has played out where the warrant is  
23 executed, we recovered things that day that we found  
24 that are the basis of a Criminal Complaint, that  
25 defendant is charged with a lesser offense, but I'm

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2 asking you to consider he now has knowledge of something  
3 that most defendants would not have knowledge until they  
4 were charged. So the same incentive to flee or a  
5 similar incentive to flee once someone is charged also  
6 exists maybe to a slightly lesser extent when they are  
7 under investigation of an offense. Certainly when they  
8 evince consciousness of guilt when involved. For  
9 example, the President of the Rare Breed Wellsville  
10 Motorcycle chapter, this defendant, closing down the  
11 Wellsville Rare Breed chapter during the FBI's  
12 investigation in Wellsville into the death of Crystal  
13 Quinn. Shutting it down. It is covered in the meeting  
14 minutes that were seized.

15 THE COURT: Tell me about that.

16 MR. COOPER: Absolutely, Judge.

17 THE COURT: Give me some facts about that,  
18 Mr. Cooper. Don't get testy about this. I have to make  
19 a decision as to whether or not to agree with the  
20 government. You have a very quizzical look on your  
21 face. I have to make a decision as to whether or not  
22 with to agree with the government on this and detain  
23 somebody pending a resolution of these charges even  
24 though there is a presumption in favor of bail. You  
25 have to give me facts to support your argument, okay?

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2 MR. COOPER: It is absolutely not my  
3 intention to be testy with the Court. And if my face is  
4 weird looking, I apologize, I'm not trying to.  
5 Furthering my argument, but in no way am I intending to  
6 be disrespectful to your Honor.

7 THE COURT: Go ahead, Mr. Cooper.

8 MR. COOPER: Okay. Thank you, Judge.

9 So the Rare Breed Motorcycle Club in Buffalo  
10 is where this defendant's current base of operations.

11 THE COURT: And, well, I do need to  
12 interrupt you. There is a reference, I think, in the  
13 Notice of Motion that you filed that he is the former  
14 President of the Rare Breed Motorcycle Club's Wellsville  
15 chapter.

16 MR. COOPER: That's correct. And I'm  
17 working towards the explanation.

18 THE COURT: Okay.

19 MR. COOPER: So the Rare Breed clubhouse in  
20 Buffalo is where the defendant was currently operating  
21 out of when the search warrants were executed on  
22 December 7th.

23 THE COURT: Where is that located?

24 MR. COOPER: If you give me one second, your  
25 Honor. 934 East Delaware Street in Buffalo, New York.

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2 THE COURT: Which is a different clubhouse  
3 than the Outlaws Motorcycle Club house?

4 MR. COOPER: In close proximity, but a  
5 separate structure, correct, Judge.

6 THE COURT: Okay.

7 MR. COOPER: And so the Government's  
8 information, and I'll explain where that comes from in a  
9 moment, as of December 7th when the warrants were  
10 executed, the defendant's role was as the vice president  
11 of the Buffalo chapter of the Rare Breed Motorcycle  
12 Club. The references earlier to the defendant being the  
13 president of the Wellsville chapter are based on  
14 information that the government has from more than one  
15 witness, information that is corroborated by minute  
16 ledgers, essentially church or meetings that the club  
17 has, where they describe what they discussed. So the  
18 defendant was the president of the Wellsville chapter.  
19 Sometime approximately in November of 2023, the  
20 Wellsville chapter is shut down. I believe the word  
21 used in the minute ledger is "suspended." So it ceases  
22 to exist.

23 THE COURT: Did you say the month that that  
24 occurred.

25 MR. COOPER: November of 2023, your Honor.

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THE COURT: Okay.

3 MR. COOPER: And so a similar entry into  
4 meeting minutes indicates that "Cone," this defendant.

THE COURT: "Cone" is that?

6 MR. COOPER: Cone is an alias, Roncone is  
7 the defendant's last name, but his alias is "Cone."

8                   That "Cone" had become the vice president  
9 now of the Buffalo chapter.

10 THE COURT: That is in the meeting minutes?

11 MR. COOPER: Yes, Judge. Because there is  
12 no Wellsville chapter to preside over anymore. And so  
13 that is the information that we had from witnesses even  
14 before the search warrants were executed, which is then  
15 corroborated when the Buffalo Rare Breed clubhouse is  
16 searched, binders containing minutes from meetings are  
17 seized, and then analyzed or at least have begun to be  
18 analyzed by law enforcement and entries, as I've  
19 described for the Court are discovered. So they  
20 establish this defendant's status both in the Wellsville  
21 chapter previously and then in the Buffalo chapter now  
22 once the Wellsville chapter has been shut down.

I'd like to point out for the Court and focus on, I think, particularly important about the Wellsville chapter shutting down, and that is the timing

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2 of it.

3 On October 24th 2023, the FBI executed  
4 search warrants at three locations in and around  
5 Wellsville, New York. It's not the beginning of their  
6 investigation, but it was a significant step or a  
7 significant date of the investigation. They search a  
8 residence associated with Howard Hinkle. They search a  
9 hunting cabin associated with Howard Hinkle. And they  
10 search a residence of an individual names Frank Knight.  
11 During the execution of those search warrants,  
12 specifically at Hinkle's residence, law enforcement  
13 acquired 19 firearms and well over 100 marijuana plants.  
14 Hinkle is charged that day, initially by Criminal  
15 Complaint or remains charged by Criminal Complaint to  
16 date. That occurs in late October of 2023. So there is  
17 a significant law enforcement presence now starting  
18 which began on August 2nd or 3rd, essentially right  
19 after Crystal Quinn is found deceased, the investigation  
20 has been going on, but in terms of significant events in  
21 Wellsville, October 24th, 2023 was probably the largest  
22 or one of the largest law enforcement incidents in  
23 Wellsville where the FBI is down there executing  
24 numerous search warrants, making arrests. And very  
25 shortly after that, in the month of November 2023, the

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2 Wellsville chapter of the RBMC is suspended.

3 Roncone goes from being president of that  
4 chapter to vice president of Buffalo. And it's the  
5 government's position, given all of the evidence in its  
6 investigation to date, that that evinces consciousness  
7 of guilt on behalf of the defendant and on behalf of the  
8 organization as a whole. While the FBI are  
9 investigating the area, the Wellsville chapter is shut  
10 down, closed off. It's an attempt to avoid law  
11 enforcement attention.

12 I'd like to fast forward to the December 7th  
13 searches and the items recovered. The court spoke about  
14 being a user in possession of marijuana, and I would  
15 just like to start with exhibit A-1, it's the very first  
16 page of the binder in front of your Honor. This is a  
17 tray with a credit card, business card, a plastic corner  
18 with white powdery residue inside of it, a white ceramic  
19 or plastic bowl, with what appears to be a white powder  
20 in front of it, and three straws.

21 And, Ms. Champoux, if we could zoom in on  
22 the white ceramic color bowl. And you can see when Ms.  
23 Champoux zooms in that there is appears to be white  
24 powder inside of the bowl.

25 THE COURT: Where was this?

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2 MR. COOPER: Inside Mr. Roncone's residence.

3 If you can click out of that, Karen, thank you.

4 So we have the plastic corner, the credit  
5 card, and I believe that is called a motoring pestle.  
6 The white bowl with the pestle here to crush powder and  
7 then three straws. This Court has been on the bench for  
8 a long time and I don't need to tell your Honor that  
9 each these items is consistent with the use of  
10 controlled substances. There is the white powder, the  
11 plastic bag --

12 THE COURT: At the hearing in front of Judge  
13 Schroeder, there had been no testing of this, is that  
14 still the case, or no results?

15 MR. COOPER: I don't know what the status is  
16 at the lab, but I know that we don't have results back  
17 yet.

18 I would indicate to your Honor, though, that  
19 the set up here in front of you is pretty plain as to  
20 what's going on and that is not marijuana. And I would  
21 submit to the Court that there is a pretty significant  
22 difference between a user of marijuana possessing the  
23 litany of firearms that this defendant possessed and a  
24 user of what appears to be cocaine or another substance.

25 THE COURT: I agree with you. I think the

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2 problem with marijuana is it's legal now in New York  
3 State. So it's not legal under federal law, but there  
4 is, I'm sure, a lot of owners, possessors of firearms  
5 who also use marijuana. And the government isn't  
6 charging them, typically, unless there is some other  
7 crime that is involved.

8 MR. COOPER: And I think the government  
9 likely appropriately exercises its discretion with  
10 respect to charging that. I agree with your Honor that  
11 it is not frequently charged. And what I'm focusing on  
12 and attempting to draw the Court's attention to is what  
13 we have here is evidence of at least use of a more  
14 significant controlled substance, a controlled substance  
15 that poses a more significant risk to the community when  
16 assessing danger to a person who possesses a litany of  
17 firearms, including the firearm recovered at the Alma  
18 Hill property that we'll get to in a little while.

19                   This is consistent with a cocaine user, the  
20 white powder, the white plastic bag and straws, and that  
21 is coupled with the firearms. I'm not trying to repeat  
22 myself.

23 THE COURT: But this is the way in which the  
24 items were discovered at the residence?

25 MR. COOPER: Correct, Judge. This tray, I

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2 believe, was recovered from inside of the safe added on  
3 the item log. It was probably put on a table to be  
4 photographed.

5 THE COURT: But, in other words, the tray  
6 had the cards along with the drugs and the straws all  
7 together?

8 MR. COOPER: That is my understanding,  
9 Judge. When I spoke with the agents about how these  
10 photographs were generated, it's my understanding that  
11 the items of evidence are photographed in place, meaning  
12 they are photographed as they are observed and then  
13 packaged. And since this is not packaged yet, I'm  
14 inferring this is how it was observed, that is based on  
15 the conversations about how each photograph was taken,  
16 generally, not specific to this picture.

17 THE COURT: Okay.

18 MR. COOPER: We go to A-4, Ms. Champoux.

Again, we're looking at photograph taken from inside the defendant's residence, Judge. And again we find what appears to be packaging with a plastic bag corner and a small tie and a small amount of white powder substance inside the bottom of the bag. Again, this is not marijuana use, this is consistent with use of a different controlled substance, likely cocaine

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2 based on the packaging. The import of this, again, is  
3 as it relates to the possession of the firearms and the  
4 danger that a cocaine user possessing all of these  
5 firearms poses to the community.

I would also note for the Court, just to step aside from the exhibit A-4 for a moment and to look at the Pretrial Services Report that the defendant did admit to some drug abuse in the Pretrial Services Report, including cocaine use. It would be the government's position, based on what was recovered here, that the defendant likely minimized or fibbed about the recency of that cocaine use and the frequency of that cocaine use, but he did acknowledge cocaine use and that is consistent with what was recovered.

16 It's also important to point out that when  
17 being interviewed as the search was being executed, the  
18 defendant denied any controlled substances being inside  
19 of the house. That is not consistent with what was  
20 found.

THE COURT: He denied that to who?

22 MR. COOPER: Denied that to I believe  
23 Special Agent Brian Burns from the FBI.

24 THE COURT: When the search warrant was  
25 being executed you said?

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2 MR. COOPER: That's correct, Judge. So the  
3 way it played out, I wasn't there, based on the  
4 conversations with the agents, that when the warrant is  
5 executed, persons who are inside are at least  
6 temporarily detained as the residence is being cleared.  
7 And at that time, Agent Burns or another agent asked Mr.  
8 Roncone if there was anything dangerous inside of the  
9 home, anything that would hurt agents and any drugs and  
10 the defendant denied that and that is inconsistent with  
11 what was recovered.

12 If we turn to A-5 for a moment, Ms.  
13 Champoux.

14 Bag of marijuana again found inside of the  
15 defendant's residence.

16 THE COURT: Has this been tested? It looks  
17 like marijuana.

18 MR. COOPER: Judge, no, it has not been  
19 tested yet. The drug items have been brought to the  
20 laboratory. There is a significant amount of items  
21 dropped off at once. I don't have reports back from  
22 them yet. But based on the agent's training and  
23 experiences, packages and appearance, they believe this  
24 to be marijuana. It certainly appears, in my eight  
25 years of experience as a prosecutor, to be marijuana.

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2         And there have been chemical tests requested for these  
3         items, but they are not back here.

4                                 THE COURT: Do you know when you expect to  
5         have them back?

6                                 MR. COOPER: Most recently, the Niagara  
7         County Laboratory informed us to get all of the results  
8         back for everything that was delivered, which included  
9         the 100 marijuana plants or 150 marijuana plants from  
10        Hinkle's residence, they said about two months. I'll be  
11        following up with the Niagara County Lab.

12                               THE COURT: Hinkle marijuana plants were  
13        seized back in October?

14                               MR. COOPER: October 24th. Our indication  
15        is we're expecting results back from everything that has  
16        been delivered in about two months. I plan to follow up  
17        with the lab this week and ask to expedite.

18                               THE COURT: Two months from now in other  
19        words?

20                               MR. COOPER: Two months from yesterday or  
21        two days ago.

22                               THE COURT: Okay. If we look at exhibit B-1  
23        next, Ms. Champoux. Thank you.

24                               This is one of the firearms that were  
25        recovered inside the defendant's residence. And I want

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2 to obviously front for the Court what Judge Schroeder  
3 discussed with the government, which is that these  
4 firearms were otherwise lawfully possessed and the  
5 government acknowledges that, as far as we know, with  
6 the information available to us right now, the firearms  
7 recovered from Mr. Roncone's residence would have been  
8 otherwise lawfully possessed but for his status as a  
9 user of controlled substances. However, again, the  
10 government's position is that when you have a defendant  
11 who is in a leadership position in a motorcycle gang who  
12 is using cocaine and using marijuana and who is  
13 possessing this litany of firearms, that poses a danger  
14 to the community. And so it's, I guess, the  
15 government's position, separate and apart from whether  
16 this firearm was otherwise purchased legally, because  
17 you can't possess it if you're a user of controlled  
18 substances, which this defendant, by his own admission  
19 to pretrial services, is.

20 We go to B-2, Ms. Champoux. This is another  
21 firearm recovered from inside the defendant's residence.

22 And then if we can go to B-3, Ms. Champoux.

23                   Two more firearms, Judge, also recovered  
24 from inside the residence.

25 THE COURT: The defendant's residence, he

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2                                  lived there with who?

3                                  MR. COOPER: Judge, I don't know who else  
4                                  was present, if anyone else was present at the time of  
5                                  the search.

6                                  THE COURT: I think he has indicated in the  
7                                  bail report he lives with his father.

8                                  MR. COOPER: I believe that is accurate. I  
9                                  don't know if he was present at the time the warrant was  
10                                executed.

11                                MR. DELL: He was.

12                                THE COURT: Who said he was?

13                                MR. DELL: I did.

14                                THE COURT: Okay.

15                                MR. DELL: His father was present when they  
16                                executed the warrant.

17                                THE COURT: And this is in Lancaster, a  
18                                residence in Lancaster, correct.

19                                MR. COOPER: That's correct, Judge. So  
20                                there was a firearm that Mr. Tripi proffered about and I  
21                                just want to clarify something for the Court.

22                                If we go to B-24, Ms. Champoux.

23                                Judge, Mr. Tripi proffered in front of Judge  
24                                Schroeder that B-24 was being examined more closely  
25                                because there was a suspicion by law enforcement agents

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2 that the serial number had been altered in some way.

3 Ms. Champoux, can you zoom in on the serial  
4 number? That was the opinion of agents who are not  
5 firearms experts, but they believe that this "Z," the  
6 final digit in the serial number, appear to be altered.  
7 They believe the bottom line of the "Z" on the  
8 right-hand side of this photograph, it has been changed,  
9 essentially, into the firearm from a "7" to become a "Z"  
10 and that belief was based on the appearance of the  
11 firearm, the appearance of the serial number, and the  
12 there is some discoloration around the right side of it.  
13 That attempt appeared it was trying to be filed down  
14 after it was tapped. So that proffer was made in good  
15 faith by the government. However, we also look to  
16 verify that information. However, this morning, I found  
17 out a half hour before court, that serial number was run  
18 through the ATF system and it was not tampered with or  
19 defaced. I want to clarify that for the government and  
20 Mr. Dell. The government did hedge that argument that  
21 it was not confirmed, but it's now been confirmed that  
22 that serial number was not edited or altered based on  
23 the ATF's trace report.

24 You can take that down, Ms. Champoux. Thank  
25 you very much.

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If we go to C-4, Ms. Champoux. Thank you.

3 So here we have an ammunition crate  
4 containing what appears to be rifle ammunition in a  
5 fairly large quantity.

If you go to D-1, Ms. Champoux. Thank you.

7 Judge, on D-1 we're looking at some rings,  
8 some evidence that was seized from the defendant's  
9 residence, just evidence of association with the motor  
10 cycle club. The government has been proffering to your  
11 Honor that this defendant had a membership in the Rare  
12 Breed Motorcycle Club. This evidence is obviously  
13 corroborative evidence of an association with that  
14 organization.

15                           THE COURT: I think Mr. Tripi made the  
16 argument to Judge Schroeder this was a means by which to  
17 have brass knuckles.

18 MR. COOPER: And, Judge, that is also, I  
19 believe, a valid argument. Brass knuckles are illegal  
20 in New York similar to some of the other weapons that  
21 were recovered in other searches. I know your Honor has  
22 presided over several other defendants that were  
23 searched and arrested on December 7th. Similar to the  
24 bandana with the padlock buckled around with it, that is  
25 not illegal to walk around and carry, but it can be a

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2 very damaging weapon when used to wrap around your fist  
3 and strike somebody. Similarly, heavy metal weighted  
4 rings is not illegal. You get stopped, there is no  
5 issue of wearing heavy weighted metal rings, but it does  
6 cause more damage.

7                   THE COURT: So Mr. Roncone lives in a  
8 residence with his father. Why am I to conclude -- what  
9 information does the government have that all of the  
10 rings depicted in D-1 belong to the same individual?

11 MR. COOPER: Judge, I'll follow up on that  
12 and confirm which room they were seized out of. I don't  
13 have that off the top of my head, but I'll get that  
14 information for you.

15 Ms. Champoux, if you can go to D-5.

16                   THE COURT: Let me go back a moment. As  
17 you're standing here right now, you cannot tell me all  
18 of the rings belong to the same individual. Is that a  
19 fair statement?

20 MR. COOPER: That is a fair statement,  
21 Judge.

22 Would you go to D-5, Karen. Thank you.

23 Again evidence corroborating the  
24 government's proffer to this Court that the defendant is  
25 a member of the Rare Breed Motorcycle Club, this

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2 includes a patch underneath -- if you zoom in on the top  
3 right corner. Thank you. Indicating a location,  
4 specifically Wellsville, the information available to  
5 the government is that the defendant's father, whom he  
6 lives with, is the president of the Buffalo chapter and  
7 so this vest with the bottom patch of Wellsville would  
8 indicate to the government that it long belongs to this  
9 defendant and not his father. Thank you.

10 And then, Ms. Champoux, if you go to D-6.

11 This is the back of that vest again showing  
12 the patches of the Rare Breed Motorcycle Club. And at  
13 D-7, this is a different vest, Judge, and you can see in  
14 the top left corner, if Ms. Champoux will Zoom in here,  
15 we have a patch indicating "Buffalo," another patch on  
16 the right side. You can take it down. Another patch on  
17 the right side indicating lifetime membership. It's the  
18 believe this is the vest of the defendant's father. So  
19 there is evidence of both of these individuals being  
20 members of the Rare Breed Motorcycle Club based on the  
21 evidence recovered from the search warrant.

22 If we can go to E-2.

23 Judge, what we have here is a poster saying  
24 someone talked with a person sinking in water.

25 THE COURT: Somebody is what?

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2 MR. COOPER: Sinking in what appears to be  
3 water, that is what I see when I look at it.

4 THE COURT: You're talking about this  
5 poster? I'm sorry, I'm looking at the wrong thing.

6 MR. COOPER: E-2.

7 THE COURT: Got it.

8 MR. COOPER: So there is the words at the  
9 top "someone" the word at the bottom "talked" and it's  
10 an individual that appears to be sinking in water. This  
11 is consistent with other imagery you've seen from other  
12 searches.

13 THE COURT: Where was this taken?

14 MR. COOPER: I believe the Buffalo Rare  
15 Breed clubhouse, Judge.

16 I'm sorry. Ms. Champoux made me a list, and  
17 I misplaced it. It's from the Rare Breed clubhouse in  
18 Buffalo, Judge.

THE COURT: Okay.

20 MR. COOPER: Next if we go to E-3.

21 THE COURT: We're still on the Rare Breed  
22 clubhouse in Buffalo?

23 MR. COOPER: Yes, your Honor. This entire E  
24 series of exhibits is going to be from the Rare Breed  
25 clubhouse in Buffalo. And if we zoom in here. The

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2 poster stating "Due to the rising cost of ammunition,  
3 I'm no longer able to provide a warning shot," with a  
4 firearm depicted on it. Again, in the context of this  
5 organization, the organization's role as a support club  
6 for the Outlaws Motorcycle gang, this poster evinces a  
7 belief within members of the group or a willingness to  
8 use firearms. And I should say use firearms to shoot  
9 individuals, not to hunt or target practice.

10 If you can go to E-4, Ms. Champoux. We're  
11 still inside the Rare Breed Buffalo clubhouse and here  
12 we have what appears to be a Nazi swastika or flag. Ms.  
13 Chalbeck provided a proffer to Judge Schroeder. She  
14 certainly spoke more intelligently than I can on the  
15 subject about what the symbolism of this poster is. And  
16 to summarize Ms. Chalbeck's proffer, which is contained  
17 in the transcript that your Honor has, those letters  
18 NSKK at the top of the flag relate to, essentially, a  
19 Nazi motorcycle group, for lack of a better phrase. So,  
20 again, does the First Amendment protect freedom of  
21 speech? It absolutely does. Does this give a window  
22 into somebody's mind-set? It absolutely does. So I  
23 think it's worth pointing out to the Court and I think  
24 it is something the Court can consider. It's a symbol  
25 of hatred. A symbol related to the extermination of a

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2 certain race of people, and a symbol that I think it  
3 speaks to the mind-set of individuals who essentially  
4 pledge their lives to these organizations.

5 If we go to exhibit E-9, Ms. Champoux.

6 Judge, here we're looking at, again, this is  
7 seized from the Rare Breed Buffalo clubhouse, and it's a  
8 binder containing a second superseding indictment  
9 involving a prosecution in the Western District of New  
10 York against a motorcycle gang.

11 THE COURT: Back in 2009?

12 MR. COOPER: That's correct, Judge. I think  
13 the indictment --

14 THE COURT: Well, it's an 09 number.

15 MR. COOPER: Okay. I saw an 08 number above  
16 it - a 2009 indictment.

17 THE COURT: This was a binder found in the  
18 Rare Breed Buffalo clubhouse?

19 MR. COOPER: Yes, your Honor.

20 Mr. Tripi proffered to Judge Schroeder, and  
21 we're going to continue to proffer about the association  
22 that the Rare Breed motorcycle gang has with the Outlaws  
23 motorcycle gang.

24 If you go to E-10, Ms. Champoux.

25 I spoke with you before your Honor about

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2 binders that contain meeting minutes from the Rare  
3 Breed. Ms. Champoux zoomed in on a line from one of  
4 those meeting minutes indicating that Taco Bowman's  
5 funeral is planned for this Saturday. It says "Taco"  
6 not Taco Bowman to be clear, but Taco Bowman was a  
7 longtime leader of the Outlaws motorcycle gang. This is  
8 an indication that the Rare Breed was tracking when his  
9 funeral was.

10 THE COURT: When did he die?

11 MR. COOPER: In 2019, Judge.

12 If we go to E-11, please. Thank you.

13 Here, if you look at line item 7 on exhibit  
14 E-11, again, a reference to this legendary Outlaws  
15 motorcycle member's funeral in Dayton, Ohio showing the  
16 association between these two organizations.

17 And if you just remove that zoom in for a  
18 second, Karen. Thank you. If you can zoom in on 6, Ms.  
19 Champoux.

20 Just above that in line item 6 on exhibit  
21 E-11 indicates that the club or gang is trying to get  
22 sponsors for Blues Cruise event. It's a party they put  
23 on every so often. And this is important to look at  
24 because what we found in the search of the Pharaoh's  
25 Gentlemen's Club is a plaque from the Blues Cruise

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2 indicating that Pharaoh's provided sponsorship. It's a  
3 plaque that the Rare Breed gave to Pharaoh's. And I'll  
4 get into a why that is significant and should be  
5 significant to your Honor.

6 If we can go to E-12, and line item 10.

7 Again, Rare Breed meeting minutes announcing  
8 to members of the club that the Pharaoh's anniversary  
9 party is next Wednesday. This is evidence of  
10 association between the organization at Pharaoh's and  
11 the Rare Breed Motorcycle Club. And, importantly, as  
12 your Honor knows, John Ermin, also known as Tommy O, has  
13 essentially managed Pharaoh's for years and he is also  
14 the international or national president of the Outlaws  
15 Motorcycle Club, and so you're seeing this nexus between  
16 Pharaoh's and members of the Outlaws.

17 THE COURT: I wouldn't say that I know that  
18 he is the president of the Outlaws Motorcycle Club.

19 MR. COOPER: If I -- I didn't mean to phrase  
20 it, it's been proffered by the government that he  
21 maintains his status as the president or international  
22 president of the Outlaws.

23 THE COURT: That's been proffered by the  
24 government, but I think it's a fair statement to say  
25 it's not clear to me what the government is relying on

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2 other than one witness I think Mr. Tripi identified. I  
3 don't know that. I mean that is a question I still have  
4 in my mind.

5 MR. COOPER: I can --

6 THE COURT: Because I asked -- I don't know  
7 if you were here for Mr. Ermin's detention.

8 MR. COOPER: I was not, Judge.

20 MR. COOPER: Thank you for clarifying that  
21 and I should tighten. It's been proffered by the  
22 government, I didn't mean to presume that your Honor has  
23 accepted that. And I find myself trying to walk a tight  
24 rope between giving your Honor the information that your  
25 Honor needs while also maintaining safety of

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2 individuals, and so I certainly don't mean to be coy  
3 with your Honor when you ask me questions.

14 MR. COOPER: I can tell your Honor that in  
15 addition to the source of information that Mr. Tripi  
16 reported to you, that there has been a second or  
17 separate source of information discovered recently by  
18 the government that indicates similarly that Ermin is  
19 either the president of the country or the president of  
20 the east coast of the Outlaws. And that was information  
21 discovered fairly recently in the investigation. I  
22 don't want to be more specific than that. I'll move on.  
23 I don't think that I need to spend more time there.

24                   But the nexus between the Outlaws Motorcycle  
25 Club the Rare Breed Motorcycle Club and the Pharaoh's

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2 Gentlemen Club is particularly important to the reason  
3 for this Court to have serious concerns about flight  
4 risk, serious concerns about danger to witnesses that  
5 are exposed, should this defendant or other similarly  
6 situated defendants be released. And I would like to  
7 move to that part of the proffer now.

8 So would you take that down, Ms. Champoux?

9 Judge, on August 1st, 2023, 911 is called by  
10 an individual named Simon Gogolack to report there is a  
11 dead person in his house. The police respond, Gogolack  
12 is erratic and they observe a woman deceased in a bed.  
13 That woman turns out to be Crystal Quinn, who was  
14 scheduled or slated to testify at an upcoming federal  
15 trial. One of the first observations made by law  
16 enforcement when they respond to that scene is that it  
17 appears to them, based on their training and experience,  
18 that she has been dead for quite some time. It didn't  
19 appear that she recently expired or recently suffered  
20 from an overdose. In fact, the information that was  
21 conveyed to the FBI, she appeared to be fully rigger or  
22 in full rigor mortis. The investigation later  
23 determined that it was likely that Quinn had been dead  
24 between 12 and 36 hours by the time 911 was called. The  
25 house that she was found in was broken into essentially

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2 a very small liveable area and then most of the house,  
3 which was in utter disarray, exposed walls, holes in the  
4 walls, holes in the window, it's not like there was this  
5 large area in the house to not notice the dead person.  
6 It was a very small living area. The death of Crystal  
7 Quinn was not called in until a significant period of  
8 time after she is believed to have died. That  
9 individual, Simon Gogolack, is obviously the closest  
10 person to Quinn's death because he calls it in and is  
11 there when she is discovered. Law enforcement's  
12 investigation finds out over the course of weeks and  
13 months that this has been going on, that the FBI has  
14 been interviewing witnesses, executing search warrants,  
15 examining phones, that Gogolack brought Quinn down to  
16 Wellsville just the weekend before she is found dead.  
17 On July 27th, when he drives Quinn down to Wellsville,  
18 he brings, essentially, straight to a poker game, where  
19 she encounters either members or associates of the Rare  
20 Breed Motorcycle Club. It's a poker game that has  
21 historically been hosted by and attended by members of  
22 the Rare Breed Motorcycle Club. Specifically, up until  
23 maybe a year or year and a half ago, the person who is  
24 believed to control that game, to accept the money and  
25 hand out the chips is this defendant, Michael Roncone.

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2 So this poker game that Quinn is brought to is closely  
3 connected to the Rare Breed Motorcycle Club.

4 THE COURT: Can I interrupt you there?

5 MR. COOPER: Of course.

6 THE COURT: You say up to a year, year and a  
7 half ago Mr. Roncone was, essentially, the organizer of  
8 this poker game, but it's not the government's  
9 contention that he organized the July 27 poker game?

10 MR. COOPER: That's correct, your Honor.

11 And so what I was trying to point out for your Honor is  
12 there is a long historical period indicating that this  
13 game in particular is a game associated with members of  
14 the Rare Breed Motorcycle Club attended by members and  
15 at least formerly run by this defendant.

16 THE COURT: Is it held on an annual basis or  
17 just a regular poker game?

18 MR. COOPER: I think it's held on a regular  
19 basis. I wouldn't say annual, more frequent than  
20 annual.

21 THE COURT: Okay.

22 MR. COOPER: When Gogolack brings Quinn to  
23 that poker game, he interacts with an individual named  
24 Howard Hinkle. Hinkle is believed to be, based on the  
25 investigation, at a minimum, an associate of the Rare

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11:26:07 2 Breed Motorcycle Club. Hinkle and Gogolack show up very  
11:26:14 3 late to the game. They essentially abandon Crystal  
11:26:20 4 Quinn at one point.

11:26:21 5 THE COURT: Do you have video of this?

11:26:25 6 MR. COOPER: Yes, Judge.

11:26:26 7 Walk away from Ms. Quinn, have private  
11:26:28 8 conversations, come back to her, and, ultimately, they  
11:26:31 9 take Quinn to Hinkle's cabin. After being at Hinkle's  
11:26:35 10 cabin, they return late, either late on the night of the  
11:26:40 11 27th or in the early morning hours of the 28th to  
11:26:44 12 Gogolack's residence.

11:26:45 13 THE COURT: They being Gogolack and Quinn?

11:26:49 14 MR. COOPER: And they are dropped off there  
11:26:52 15 by Hinkle. Just hours after they are dropped off back  
11:26:56 16 at Gogolack's residence in the early morning hours of  
11:27:07 17 July 28th, 2023, Crystal Quinn exchanges text messages  
11:27:13 18 with two different individuals. One of the individuals  
11:27:16 19 that she is text messaging with is Simon Gogolack. Now,  
11:27:20 20 the Court can infer they are not sitting in the same  
11:27:23 21 room together if they are text messaging. And the  
11:27:26 22 contents of their text messages confirm that they've  
11:27:29 23 become separated at this point. The first text message  
11:27:34 24 is Crystal Quinn asking, "Where are you?" This is  
11:27:36 25 approximately 5:30 in the morning, the early morning

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11:27:39 2 hours of July 28th.

11:27:42 3 Gogolack tells Quinn "top of road."

11:27:48 4 Quinn responds to that text message at 5:32

11:27:50 5 and says "We are fine. They are not hurting me."

11:27:56 6 That time frame from 5:30 to 6 a.m., time

11:27:59 7 frame is instructive, not just because of the text

11:28:02 8 messages that Quinn is exchanging with Gogolack, but

11:28:05 9 because of the text messages that Quinn is exchanging

11:28:07 10 with another individual.

11:28:10 11 She sends a text message at 5:39 a.m. to

11:28:13 12 another individual, not a person in Wellsville, a

11:28:16 13 personal relationship of hers, and she says, "Call me."

11:28:20 14 At 5:41 a.m. she says, "Yeah, I just heard Simon

11:28:25 15 speaking to one of the bikers." At 5:42 a.m. she

11:28:34 16 writes, "I think he is getting me set up right now. I

11:28:37 17 hear him outside." Quinn continues, 5:43, "Call me now,

11:28:50 18 911." I'm skipping some if the messages in between. At

11:29:04 19 5:52, Quinn texts "pick up." At 5:54 a.m., Quinn texts

11:29:14 20 the person's name and then says "me and Simon are in

11:29:18 21 danger, call me."

11:29:31 22 It's not my intent to read every text

11:29:33 23 message that is contained in there. I want to give your

11:29:36 24 Honor a picture of what Quinn was texting.

11:29:38 25 THE COURT: Mr. Tripi proffered during Mr.

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11:29:43 2 Ermin's appeal that Ms. Quinn was texting somebody who  
11:29:47 3 was in her personal contacts, but it was the wrong  
11:29:50 4 number. Is that what this is?

11:29:53 5 MR. COOPER: Correct, Judge. So this person  
11:29:55 6 had a prior phone number and then a current phone number  
11:29:58 7 and Quinn was texting the old phone number and so the  
11:30:02 8 messages were received by an individual who now had that  
11:30:06 9 phone number, but was not the individual she was  
11:30:09 10 intending to communicate with.

11:30:10 11 THE COURT: So these messages that you are  
11:30:13 12 reading are messages Quinn is sending out but not  
11:30:16 13 getting any response.

11:30:17 14 MR. COOPER: That is correct. In fact, she  
11:30:19 15 attempts to call that person repeatedly. And when she  
11:30:23 16 attempts to call, she calls the correct contact, but,  
11:30:26 17 essentially, during the text messages, it's the  
11:30:28 18 government's position that she panicked based on what  
11:30:32 19 she is saying in the text messages that she is texting  
11:30:37 20 the older version of that context and never gets and  
11:30:40 21 never gets the help she was asking for.

11:30:41 22 THE COURT: Maybe I misheard you. Did she  
11:30:45 23 end up speaking to this person?

11:30:47 24 MR. COOPER: Not in this time frame, Judge.

11:30:49 25 THE COURT: Okay.

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11:30:50 2 MR. COOPER: And so those are text messages  
11:30:52 3 between 5:30 and about just before 6 a.m. on July 28th.  
11:31:01 4 Going back to the text messages that Quinn exchanges  
11:31:03 5 with Simon, she tells him at 5:32, "We're fine. They  
11:31:08 6 are not hurting me." And at 5:33, and she says, If they  
11:31:13 7 do, just let it happen, don't get your ass killed."

11:31:17 8 THE COURT: She says that?

11:31:18 9 MR. COOPER: Correct. She says, "If they  
11:31:20 10 do, just let it happen, don't get your ass killed."

11:31:24 11 THE COURT: She says that to Gogolack?

11:31:26 12 MR. COOPER: Correct. And 10 minutes after  
11:31:33 13 she sends that message to Gogolack is when she texts  
11:31:37 14 this other individual that she heard Simon talking to  
11:31:41 15 one of the bikers and she thinks he is setting her up.  
11:31:45 16 And so initially she is texting Gogolack thinking he is  
11:31:51 17 defending during this 5:30 a.m. standoff at the house in  
11:31:55 18 Wellsville. And 10 minutes later she is texting the  
11:31:58 19 message to this individual saying Simon is setting her  
11:32:06 20 up, pleading for help and setting her up with bikers.

11:32:11 21 At 5:35, Quinn texts Gogolack, "Should I  
11:32:14 22 lock door?" And then she texts him "let them kill me."  
11:32:22 23 At 5:36 she texts Gogolack, "They are coming in, aren't  
11:32:28 24 they?" I read those portions of the text messages to  
11:32:55 25 try to paint a picture for the Court of what went on,

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11:33:02 2 what was going through Quinn's head of maybe two days  
11:33:08 3 before she is found dead. She is indicating that she is  
11:33:12 4 afraid. And she is indicating that Gogolack is setting  
11:33:15 5 her up with bikers. That is what she is telling to a  
11:33:19 6 person who she texts 911 and "call me now, I'm in  
11:33:24 7 danger." That is her attempt to let somebody know what  
11:33:28 8 is happening to her.

11:33:36 9 At the time all of that is going on, this  
11:33:39 10 defendant is presiding over the biker gang in Wellsville  
11:33:42 11 as the president. He is known to have a close  
11:33:46 12 association with the person who took over the poker  
11:33:48 13 game, and he is known to have a close association with  
11:33:51 14 Hinkle, the person who met with Gogolack and took Quinn  
11:33:55 15 out from the poker game and ultimately back home.

11:33:57 16 THE COURT: Was Mr. -- does the government  
11:34:00 17 believe Mr. Roncone was present at either Mr. Gogolack's  
11:34:05 18 house or at the poker game?

11:34:07 19 MR. COOPER: I don't.

11:34:09 20 THE COURT: Let me re-ask the question.  
11:34:12 21 Does the government have any information to proffer that  
11:34:14 22 Mr. Roncone was present at the poker game or at Mr.  
11:34:17 23 Gogolack's house on the evening or early morning hours  
11:34:21 24 of July 28th?

11:34:22 25 MR. COOPER: No, Judge. I don't have

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11:34:24 2 information to proffer to you that he was physically  
11:34:26 3 present at either of those locations.

11:34:28 4 THE COURT: And so you say that you have  
11:34:30 5 information, though, that he is a close association with  
11:34:34 6 Mr. Hinkle and the person who was running the poker  
11:34:37 7 game?

11:34:37 8 MR. COOPER: That's correct, Judge. And  
11:34:38 9 that is based on text message communications and reviews  
11:34:41 10 of phone records and analysis of phone records and  
11:34:45 11 interviews of witnesses. So that is coming from  
11:34:48 12 multiple sources, not just coming from interviews of  
11:34:51 13 individuals. It's coming from review of text messages,  
11:34:54 14 reviews of phone records.

11:34:58 15 THE COURT: I feel like I'm missing  
11:35:00 16 something here, though, in terms of, and maybe the  
11:35:05 17 government doesn't have the information, but I thought  
11:35:07 18 you indicated that Ms. Quinn then did connect with this  
11:35:11 19 person that she was trying to text and maybe you just  
11:35:14 20 haven't gotten to that.

11:35:15 21 MR. COOPER: No, Judge, we've gotten to it  
11:35:17 22 and my understanding of that conversation that occurred  
11:35:28 23 after is that Quinn essentially whispered and the woman  
11:35:34 24 was unable to be able to hear what was being said. It's  
11:35:37 25 the opinion of that person that essentially she was

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11:35:42 2 trying to communicate without being overheard and was  
11:35:44 3 unsuccessful in doing so. Now, she doesn't die  
11:35:52 4 immediately after that, to be clear. And so she has  
11:35:55 5 other phone contact where she doesn't report this having  
11:35:59 6 happened to her mom, to her close personal friend.

11:36:02 7 THE COURT: So Ms. Quinn has contact with  
11:36:04 8 other individuals after the early morning hours of July  
11:36:08 9 28th?

11:36:09 10 MR. COOPER: That's correct, Judge. And so,  
11:36:10 11 and that is about two and a half or three days, three  
11:36:17 12 and a half days before she is suspected to have died,  
11:36:21 13 which would have occurred between late on the 31st and  
11:36:24 14 early on August 1st. And so there is a period of time,  
11:36:30 15 appreciable period of time between those two incidents  
11:36:32 16 to be completely transparent about it.

11:36:36 17 THE COURT: And she has contact with other  
11:36:38 18 individuals who she doesn't report this to?

11:36:41 19 MR. COOPER: That's correct.

11:36:42 20 THE COURT: And does not express any fear,  
11:36:44 21 is that a fair statement?

11:36:45 22 MR. COOPER: Expresses excitement about  
11:36:47 23 coming home and getting out of Wellsville.

11:36:49 24 THE COURT: Okay. Well, that may be, you  
11:36:52 25 know, I don't know what you can infer from that.

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11:37:00 2 MR. COOPER: So --

11:37:01 3 THE COURT: Is the government, does the  
11:37:02 4 government -- well, is the government able to proffer  
11:37:05 5 who the alleged biker's were that were at Gogolack's  
11:37:12 6 house in the early morning hours of July 28th?

11:37:17 7 MR. COOPER: Like who the individuals were?

11:37:20 8 THE COURT: Yeah, the identity of any of  
11:37:22 9 them and whether or not there is a connection with Mr.  
11:37:26 10 Roncone?

11:37:26 11 MR. COOPER: No, Judge, not able to proffer  
11:37:28 12 that at this time.

11:37:29 13 THE COURT: Okay. And, I mean, you're not  
11:37:31 14 proffering -- you proffered that Mr. Hinkle is the one  
11:37:35 15 who was at the poker game with them, they go to his  
11:37:39 16 cabin, he drops them off, but you're not proffering that  
11:37:45 17 he was there during the time that Quinn was sending  
11:37:49 18 these text messages?

11:37:51 19 MR. COOPER: I'm not proffering that, Judge.

11:37:52 20 THE COURT: Okay.

11:37:54 21 MR. COOPER: And so I think where I left off  
11:37:57 22 was this close association between Knight and Hinkle.

11:38:07 23 THE COURT: Knight being?

11:38:08 24 MR. COOPER: The individual who hosts the  
11:38:12 25 poker game after Mr. Roncone moved to the Buffalo area.

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11:38:16 2 THE COURT: So is it the government's  
11:38:19 3 position that on July 27, 28, was Mr. Roncone even  
11:38:26 4 living in the Buffalo or in Wellsville at the time?

11:38:29 5 MR. COOPER: I believe his residence had  
11:38:31 6 moved to the Buffalo area at that time, whether he was  
11:38:34 7 physically present in Wellsville or not.

11:38:37 8 THE COURT: I thought you indicated that the  
11:38:38 9 Rare Breed Motorcycle Club in Wellsville closed down in  
11:38:44 10 November.

11:38:44 11 MR. COOPER: That's correct. The chapter  
11:38:47 12 shut down in November. And before the chapter shut  
11:38:50 13 down, it's my understanding that this defendant had  
11:38:52 14 moved from the Wellsville area to the Buffalo area  
11:38:56 15 because his residence in the Wellsville area was the,  
11:38:59 16 well, clubhouse, and that burned to the ground about a  
11:39:02 17 year and a half so after that happened his residence  
11:39:06 18 ceased to exist and he moved in, maybe still, with his  
11:39:10 19 father.

11:39:16 20 THE COURT: There is a reference in the  
11:39:19 21 Pretrial Services Report that Mr. Roncone says he lived  
11:39:22 22 with his parents and his current address for one year  
11:39:26 23 and at 8807 Fisk Road in Akron, New York for three years  
11:39:31 24 prior to that. Is that the Wellsville area that he  
11:39:35 25 lived or residence that he lived in?

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11:39:38 2 MR. COOPER: I don't know the street address  
11:39:39 3 of that. I believe that the defendant -- the  
11:39:43 4 information that I have is that the defendant was  
11:39:44 5 residing at the Wellsville clubhouse, which burned down.  
11:39:48 6 I don't know if that is the address of the Wellsville  
11:39:51 7 clubhouse or not offhand.

11:39:53 8 THE COURT: Okay.

11:40:00 9 MR. COOPER: So what I would proffer next,  
11:40:02 10 Judge, is that after the FBI becomes aware of Quinn's  
11:40:06 11 death, it become beginning investigating. It's  
11:40:09 12 suspicious on its face due to the delay in calling in  
11:40:13 13 her death. And as the FBI begins to investigate, they  
11:40:20 14 are interviewing individuals who encountered Quinn at or  
11:40:23 15 around the time surrounding her death. What they learn  
11:40:40 16 during the course of their investigation is that as they  
11:40:43 17 are conducting that investigation, it's being monitored  
11:40:46 18 by members of the -- by members of the Rare Breed  
11:40:51 19 Motorcycle Club. They are receiving updates from  
11:40:53 20 individuals that are local in Wellsville, specifically  
11:40:56 21 this defendant, receiving updates about what's going on  
11:41:00 22 from individuals local to Wellsville. Phone records  
11:41:04 23 show connection that this defendant receives phone  
11:41:08 24 contacts from individuals after those individuals were  
11:41:15 25 either contacted by or interviewed by the FBI.

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11:41:20 2 THE COURT: Close in time to those  
11:41:21 3 interviews?

11:41:22 4 MR. COOPER: Close in time, correct. On  
11:41:32 5 August 3rd, the individual who hosted the poker game was  
11:41:38 6 interviewed by the FBI. On that same day --

11:41:42 7 THE COURT: This is Knight, right?

11:41:44 8 MR. COOPER: Correct. On that same day,  
11:41:47 9 Knight speaks with Roncone, this defendant, regarding  
11:41:50 10 Quinn's death.

11:41:51 11 THE COURT: Well, you say regarding, how do  
11:41:54 12 you know he speaks with him regarding Quinn's death?

11:41:57 13 MR. COOPER: So, Judge, there is a text  
11:42:09 14 message that is seized from a phone belonging to Frank  
11:42:12 15 Knight where this defendant sent a picture of Crystal  
11:42:16 16 Quinn to Frank Knight on August 3rd. I believe that  
11:42:20 17 occurs temporally after their approximately 14-minute  
11:42:27 18 phone conversation.

11:42:27 19 THE COURT: So you have records of a  
11:42:29 20 14-minute phone conversation on August 3rd between Mr.  
11:42:32 21 Knight and Mr. Roncone?

11:42:34 22 MR. COOPER: And I believe that is followed  
11:42:35 23 by a text message from Roncone to Knight.

11:42:38 24 THE COURT: Just sending a picture of Ms.  
11:42:39 25 Quinn?

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11:42:40 2 MR. COOPER: Correct. And I want to be  
11:42:44 3 clear because I don't have the phone records directly in  
11:42:46 4 front of me, the order of those could be switched. It  
11:42:49 5 could be the text first and the phone call second, but  
11:42:52 6 it's my understanding that both of those occurred on  
11:42:55 7 August 3rd, the same day that individual was interviewed  
11:42:57 8 by the FBI.

11:42:58 9 THE COURT: Mr. Knight was interviewed on  
11:43:00 10 August 3rd?

11:43:01 11 MR. COOPER: Correct, Judge.

11:43:01 12 THE COURT: And it was after the interview?

11:43:04 13 MR. COOPER: Correct, Judge.

11:43:05 14 THE COURT: That the contact was made with  
11:43:07 15 Mr. Roncone?

11:43:07 16 MR. COOPER: Yes, your Honor.

11:43:08 17 THE COURT: And that there is at least a  
11:43:11 18 communication through the sending of a photograph by Mr.  
11:43:15 19 Roncone to Mr. Knight of Ms. Quinn's image?

11:43:19 20 MR. COOPER: Correct.

11:43:24 21 THE COURT: What we also have, Judge, is the  
11:43:27 22 furthering of that chain of communication. So as  
11:43:30 23 information comes from Wellsville to the leadership of  
11:43:35 24 the Rare Breed Motorcycle Club, it then goes from the  
11:43:38 25 leadership of the Rare Breed Motorcycle Club to the

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11:43:40 2 leadership of the Outlaws Motorcycle Club. And you can  
11:43:43 3 see phone contacts between this defendant and John  
11:43:47 4 Ermin, also known as "Tommy O," occurring surrounding  
11:43:53 5 dates that are significant dates in the investigation.  
11:43:56 6 For example, dates that interviews are conducted or  
11:43:59 7 dates that warrants are executed. And I don't want to  
11:44:02 8 go into those specific dates that those contacts  
11:44:06 9 occurred, but I proffer that they occurred on or about  
11:44:09 10 the date of significant dates of the investigation.

11:44:11 11 THE COURT: Can you proffer the extent of  
11:44:14 12 the communication? In other words, like a number?

11:44:16 13 MR. COOPER: A number of --

11:44:17 14 THE COURT: How frequent was the  
11:44:19 15 communication. Is this an instance where there were two  
11:44:22 16 communications between Mr. Roncone and Mr. Ermin or are  
11:44:26 17 we talking about something that occurred on a much more  
11:44:30 18 regular basis? Do you understand my question?

11:44:32 19 MR. COOPER: I think so. Can I have a  
11:44:34 20 moment to consider it?

11:44:35 21 THE COURT: Sure.

11:44:47 22 MR. COOPER: I would proffer at least two  
11:44:50 23 instances. There may be more, but I'm confident in two.  
11:44:56 24 And that is surrounding, as I said, significant dates in  
11:44:59 25 that investigation when that contact occurs after the

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11:45:05 2 event.

11:45:08 3 THE COURT: And it's in close temporal  
11:45:11 4 proximity to the event?

11:45:12 5 MR. COOPER: Correct, Judge. Close is  
11:45:15 6 subjective but --

11:45:16 7 THE COURT: Let me give you an example.

11:45:17 8 What you just described to me about the contact between  
11:45:20 9 Mr. Knight and Mr. Roncone and the exchange of the  
11:45:23 10 photograph all on the same day that Mr. Knight was  
11:45:26 11 interviewed by the FBI, I would consider that temporally  
11:45:31 12 close. So is the contact between Mr. Roncone and Mr.  
11:45:34 13 Ermin similarly temporally close, vis-a-vis significant  
11:45:40 14 events in the investigation?

11:45:42 15 MR. COOPER: Yes.

11:45:44 16 THE COURT: Okay.

11:45:45 17 MR. COOPER: With that standard, the same  
11:45:47 18 day, yes.

11:45:48 19 THE COURT: Okay. So, I guess to summarize  
11:46:25 20 the government's proffer on this point, and I think this  
11:46:31 21 is before your Honor, but let me finish with this point,  
11:46:35 22 it's the government's position that Quinn was murdered  
11:46:38 23 and her murder was staged. She was found to have 1,200  
11:46:46 24 nanograms in her system at the time her blood was  
11:46:49 25 analyzed. The medical examiner or coroner who analyzed

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11:46:53 2 that toxicology report ruled her death as undetermined  
11:46:57 3 as opposed to accident in part because of the quantity  
11:47:00 4 of Fentanyl in her system. A fatality could be caused  
11:47:06 5 with as low as 3 or point 3 nanograms per milliliter.  
11:47:11 6 The highest amount that that coroner had ever observed  
11:47:11 7 in a fatal overdose was 80n milligrams per milliliter.  
11:47:19 8 Eighty in his career dealing with Fentanyl overdoses.  
11:47:20 9 This was 1200 nanograms per milliliter. No accident.

11:47:26 10 THE COURT: Do you have a medical opinion to  
11:47:30 11 that?

11:47:30 12 MR. COOPER: I'm not.

11:47:31 13 THE COURT: That it was not an accident. I  
11:47:34 14 know you said the coroner has offered an opinion of  
11:47:37 15 undetermined. Does the government have a medical  
11:47:42 16 opinion that this was not an accident.

11:47:44 17 MR. COOPER: What I'm proffering to your  
11:47:47 18 Honor and relying on is that it's the person who gave  
11:47:51 19 that opinion is a medical doctor, if that is the  
11:47:53 20 question.

11:47:54 21 THE COURT: But that doctor has given the  
11:47:57 22 opinion that this was significantly higher, obviously,  
11:48:01 23 than any other overdose that the doctor had previously  
11:48:06 24 observed.

11:48:06 25 MR. COOPER: Yes.

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11:48:07 2 THE COURT: Eighty is the highest that  
11:48:11 3 doctor observed previously, this was 1200, so big  
11:48:16 4 disparity. And has provided an opinion that the cause  
11:48:20 5 of death was undetermined in part because of this.

11:48:23 6 MR. COOPER: Correct.

11:48:24 7 THE COURT: But that is a little different  
11:48:25 8 than having a medical opinion, and maybe it's not  
11:48:29 9 possible to have a medical opinion at this point, but  
11:48:32 10 having a medical opinion that the cause of death was  
11:48:36 11 murder.

11:48:36 12 MR. COOPER: No. I think the facts that we  
11:48:39 13 have -- the facts that exist, I don't want to over speak  
11:48:43 14 because I'm not a doctor.

11:48:44 15 THE COURT: I mean, I'm just asking about a  
11:48:47 16 medical opinion.

11:48:48 17 MR. COOPER: It's my understanding from  
11:48:49 18 conversing with that person that the facts that exist  
11:48:52 19 won't provide -- they can't rule out accident and can't  
11:48:57 20 definitively state homicide. What that person  
11:49:02 21 determined based on their training and experience was un  
11:49:05 22 determined, not accident. But to be clear with the  
11:49:09 23 Court, I don't believe that to be a ruling out of  
11:49:11 24 accident, it's a determination of undetermined. I would  
11:49:15 25 submit that that person, in making their decision. Is,

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11:49:20 2 based upon reviewing medical information and some  
11:49:23 3 surrounding circumstances, the government's  
11:49:25 4 investigation far exceeds the information that was not  
11:49:27 5 available to that person and it's the government's  
11:49:29 6 position, to be clear, not that doctor's position, that  
11:49:32 7 this was not an accident.

11:49:36 8                   What I would go next to is who has a motive  
11:49:44 9 to see Quinn dead. I would submit to the Court that  
11:49:54 10 Peter Gerace and the Outlaws Motorcycle Club had a  
11:50:00 11 motive to see Quinn dead. She was scheduled to testify  
11:50:05 12 and she expressed fear repeatedly to the government, not  
11:50:09 13 about providing information against Gerace, but  
11:50:13 14 providing information against the Outlaws. Those are  
11:50:15 15 the organizations closely related, as the government has  
11:50:18 16 proffered to your Honor, Ermin and Gerace, the Outlaws  
11:50:22 17 and Pharaoh's, those are the organizations with a motive  
11:50:25 18 to see Quinn dead.

11:50:28 19                   Gerace has no presence in Wellsville, New  
11:50:30 20 York that the government is aware of. The Outlaws have  
11:50:33 21 no Outlaw presence in Wellsville, New York. But what  
11:50:38 22 Gerace and the Outlaws share is an associate in  
11:50:43 23 Wellsville. They are associated with the Rare Breed  
11:50:46 24 Motorcycle Club. Bikers in Wellsville, New York. The  
11:50:49 25 Outlaws have them as a support club and Gerace supports

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11:50:53 2 their organization as indicated by the plaque and  
11:50:55 3 indicated by the minutes in the Rare Breed ledger. And  
11:50:59 4 so I'm hoping that what the Court is beginning to see is  
11:51:04 5 the association of all of these individuals and  
11:51:07 6 essentially the chain of events that occur where Quinn  
11:51:11 7 ends up down in Wellsville and is found dead and the  
11:51:15 8 individuals and organizations that are associated with a  
11:51:18 9 motive to have Quinn dead.

11:51:23 10 As the government's investigation ramps up,  
11:51:25 11 the communication tracks government events, as I've  
11:51:29 12 proffered to your Honor, and the organization shuts down  
11:51:32 13 its Wellsville chapter, no more. That is, as warrants  
11:51:37 14 are being executed, as arrests are being made, and I'm  
11:51:47 15 sure, and I have a great amount of respect for Mr. Dell,  
11:51:50 16 and I'm sure Mr. Dell will tell your Honor that he is  
11:51:55 17 not charged with any of this and he is right, and I  
11:51:58 18 submit the government's investigation is ongoing and it  
11:52:00 19 takes time and I am proffering the information I'm able  
11:52:04 20 to proffer at this time. But I certainly think it's of  
11:52:08 21 value to consider whether this defendant is a flight  
11:52:10 22 risk and whether this defendant poses a danger to others  
11:52:13 23 or the community.

11:52:16 24 Just a couple of exhibits that I failed to  
11:52:27 25 hit on, Judge, that I would like to direct your

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11:52:30 2 attention to in exhibit G-1. This is also from the  
11:52:35 3 Buffalo clubhouse. The government recovered a human  
11:52:38 4 skull. It was examined by the Erie County Medical  
11:52:42 5 Examiner's office. The person who examined it has a  
11:52:45 6 title that is escaping my memory right now, but a person  
11:52:49 7 who specializes in reviewing human remains and bones  
11:52:53 8 determined that this was in fact a human skull.

11:53:00 9 THE COURT: Mr. Tripi proffered that it was  
11:53:03 10 Native American?

11:53:04 11 MR. COOPER: That is based upon the  
11:53:05 12 information that was received from this expert who  
11:53:07 13 examined the bones. I don't have enough individual  
11:53:12 14 knowledge to tell the Court about the basis for that  
11:53:14 15 opinion was, but that was the person's opinion that  
11:53:16 16 reviewed the item.

11:53:17 17 THE COURT: He also proffered, stated, and  
11:53:20 18 maybe it's true, I don't know, that it's illegal to  
11:53:23 19 possess the skull of a Native American person off of a  
11:53:27 20 reservation. Are you familiar with that?

11:53:30 21 MR. COOPER: It's outside of my area of  
11:53:33 22 knowledge, Judge.

11:53:33 23 THE COURT: Okay.

11:53:40 24 MR. COOPER: The next thing --

11:53:41 25 THE COURT: When I say he proffered, I mean

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11:53:43 2 to Judge Schroeder he proffered in connection with Mr.  
11:53:46 3 Roncone's detention hearing.

11:53:47 4 MR. COOPER: Yes, Judge. I recollect what  
11:53:52 5 your Honor is referring to from the transcript.

11:54:13 6 Ms. Champoux, can we go to J-1, please?

11:54:16 7 And then just to wrap up, Judge, we're  
11:54:21 8 starting now in the series of J exhibits. These are  
11:54:24 9 items that were recovered from Roncone's trailer at the  
11:54:30 10 Alma Hill property. So this is in Wellsville or in the  
11:54:32 11 area surrounding Wellsville. And it's where the Rare  
11:54:36 12 Breed had set up, essentially, a base of operations  
11:54:38 13 after the clubhouse burned down. There were numerous  
11:54:41 14 trailers on the property. The trailer associated with  
11:54:44 15 Mr. Roncone was determined to be associated with Roncone  
11:54:47 16 in several ways. Inside that specific trailer was his  
11:54:51 17 Covid-19 vaccination card and other personal  
11:54:55 18 identification documents indicating his --

11:54:58 19 THE COURT: This was in the trailer by?

11:55:01 20 MR. COOPER: Alta Hill is like a large piece  
11:55:05 21 of property that was searched by the property on that  
11:55:11 22 piece of property. On that large piece of property  
11:55:11 23 there were numerous trailers, probably a dozen or more.  
11:55:15 24 Those trailers were all within the scope of the warrant  
11:55:18 25 in the confines of this property controlled by the Rare

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11:55:21 2 Breed. One of those trailers was associated with this  
11:55:24 3 defendant Roncone, and I'm explaining to your Honor the  
11:55:27 4 indicia of occupancy or evidence that supports that  
11:55:32 5 inference. So there was --

11:55:33 6 THE COURT: This is in the Wellsville area?

11:55:34 7 MR. COOPER: Yes, Judge.

11:55:35 8 THE COURT: Okay. And so this is where  
11:55:37 9 after the clubhouse burned down in Wellsville about a  
11:55:41 10 year and a half ago or give or take this Alma Hill  
11:55:45 11 property became the new base of operations for the club  
11:55:48 12 in Wellsville. And so that trailer indicated, both by  
11:56:01 13 its like registration, there was a temporary driver's  
11:56:04 14 license in the defendant's name inside that trailer and  
11:56:07 15 inside that same trailer is this firearm on the screen  
11:56:11 16 in front of your Honor.

11:56:17 17 Ms. Champoux, if you go to J-4. There is a  
11:56:23 18 large quantity of ammunition discovered inside that  
11:56:26 19 trailer.

11:56:26 20 And then in J-5, Ms. Champoux, there is a  
11:56:33 21 box of law enforcement ammunition indicating a label on  
11:56:39 22 it "Property of U.S. Government, not for resale."

11:56:41 23 THE COURT: Has there been any further  
11:56:43 24 evidence about this?

11:56:44 25 MR. COOPER: So warrants were executed on

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11:56:48 2 December 7th. On December 7th or December 8th, we began  
11:56:53 3 investigating the origin of the ammunition. And so I  
11:56:56 4 don't believe there is an update beyond what Mr. Tripi  
11:56:59 5 proffered to Judge Schroeder, which I know that your  
11:57:02 6 Honor is familiar with.

11:57:03 7 THE COURT: Which is it was traced to the  
11:57:05 8 Marshal Service.

11:57:06 9 MR. COOPER: Correct. I think from the  
11:57:07 10 Department of Homeland Security, it was somehow  
11:57:10 11 transferred to the Marshal Service. And I don't believe  
11:57:12 12 there has been an update beyond that in the  
11:57:15 13 investigation into the origin of this ammunition.

11:57:17 14 THE COURT: But this was in the trailer that  
11:57:19 15 has been identified as Mr. Roncone's.

11:57:21 16 MR. COOPER: Correct, Judge.

11:57:22 17 THE COURT: Okay.

11:57:40 18 MR. COOPER: You can take that down, Ms.  
11:57:42 19 Champoux. Thank you.

11:57:47 20 THE COURT: What is the difference between  
11:57:48 21 law enforcement ammunition and ammunition that you can  
11:57:51 22 buy?

11:57:52 23 MR. COOPER: Judge, I don't know that there  
11:57:54 24 is a ballistic difference. I believe that the import of  
11:57:58 25 the evidence, as it's being proffered by the government,

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11:58:01 2 is it's not something a civilian is supposed to have.  
11:58:04 3 It says right on the front that it's not for resale.  
11:58:07 4 The defendant is not a member of the U.S. Marshal  
11:58:10 5 Service or the Department of Homeland Security and he  
11:58:12 6 has come into possession of this. It shows that some  
11:58:17 7 sort of connection to obtain something from the  
11:58:19 8 government that he shouldn't be able to obtain, that is  
11:58:22 9 the proffer I'm giving, not that it's some sort of  
11:58:26 10 ballistically dangerous ammunition.

11:58:41 11 And if we could go to H-5, Ms. Champoux.

11:58:47 12 Judge, this is also seized from the  
11:58:49 13 defendant's residence, that is the residence in Buffalo  
11:58:51 14 that he shares with his father. There is a Social  
11:58:56 15 Security card and a driver's license in the name of  
11:59:02 16 another individual. And so I'm not proffering that I  
11:59:05 17 know who that individual is and I do not know why it's  
11:59:08 18 there, but I would submit to the Court that possessing  
11:59:10 19 identification documents of an individual other than  
11:59:13 20 yourself can certainly indicate to the Court that there  
11:59:16 21 is a potential for a risk of flight.

11:59:19 22 THE COURT: I read this in the transcript in  
11:59:20 23 front of Judge Schroeder. The government is not  
11:59:22 24 suggesting that it's Mr. Roncone's photograph on the  
11:59:25 25 driver license, is it?

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11:59:27 2 MR. COOPER: No, Judge. But, no, I'm not  
11:59:33 3 proffering that, Judge.

11:59:35 4 THE COURT: Okay.

11:59:36 5 MR. COOPER: And I think that goes to risk  
11:59:38 6 of flight. It's the government's position that based on  
11:59:41 7 everything that has been put before your Honor and that  
11:59:44 8 certainly goes outside of the confines of the four  
11:59:47 9 corners of the Complaint that we've proven to your Honor  
11:59:50 10 by a preponderance of the evidence that the defendant  
11:59:53 11 poses a risk of flight that no condition or combination  
11:59:56 12 of conditions could reasonably assure his return to  
11:59:59 13 court. I know that Judge Schroeder, and I'm sure your  
12:00:01 14 Honor would ask that Judge Schroeder indicated a  
12:00:04 15 \$100,000 bond and that is the defendant put up his  
12:00:08 16 house.

12:00:08 17 I would point out for the Court that in the  
12:00:10 18 Pretrial Services Report, there is an indication that he  
12:00:14 19 has over \$100,000 sitting in a bank account. So that  
12:00:17 20 amount of money, that dollar amount can mean different  
12:00:21 21 things to different people. So a defendant with access  
12:00:23 22 to large amounts of money doesn't have the same tie to a  
12:00:28 23 residence based upon a \$100,000 bond.

12:00:31 24 I would argue to the Court, as I argued last  
12:00:35 25 week with Mr. Barnes, when you're a member of an

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12:00:38 2 organization like this that is closely associated with  
12:00:40 3 the Outlaws and has an international presence, if they  
12:00:43 4 need to get someone out of town, they have the ability  
12:00:46 5 in a way of defendants who are not members of  
12:00:51 6 organizations like this don't have the ability. There  
12:00:53 7 is the ability to go anywhere in the country, clubhouses  
12:00:56 8 all over. If that is in the best interest of the  
12:01:00 9 Outlaws and the best interest of this defendant, I would  
12:01:03 10 submit to the Court he would have no trouble doing so.

12:01:07 11 We have to prove preponderance for a risk of  
12:01:10 12 flight. With respect to the fact that the defendant  
12:01:13 13 poses a danger to the community or any other person, the  
12:01:17 14 burden is clear and convincing evidence. I would submit  
12:01:20 15 to the Court that the totality of the Government's  
12:01:22 16 proffer, not looking at individual items in isolation,  
12:01:25 17 but looking at everything as a whole, paints a picture  
12:01:28 18 that is clear and convincing that the defendant, due to  
12:01:32 19 his role in this organization and his nexus to Quinn's  
12:01:35 20 death, poses a danger to the community.

12:01:39 21 THE COURT: Do you have any proffer of any  
12:01:41 22 acts of violence committed by the Rare Breed Motorcycle  
12:02:02 23 Club?

12:02:02 24 MR. COOPER: Not that I can get into today,  
12:02:08 25 Judge, not that I'm willing to proffer at this time.

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12:02:11 2 THE COURT: Okay. Anything else?

12:02:13 3 MR. COOPER: No. Thank you for listening.

12:02:15 4 I appreciate it.

12:02:16 5 THE COURT: Thank you.

12:02:18 6 Why don't we take a break? Plan on an about  
12:02:20 7 a 10-minute break and we'll resume shortly. Thank you.

12:02:20 8 (Whereupon, there was a break in the  
12:17:42 9 proceeding.)

12:17:42 10 THE COURT: All right. We are back on the  
12:17:44 11 record. Note the presence of all counsel and Mr.  
12:17:46 12 Roncone.

12:17:47 13 Mr. Dell, are you ready to proceed?

12:17:49 14 MR. DELL: Yes, your Honor. I am going to  
12:17:53 15 be very brief, your Honor.

12:17:55 16 THE COURT: That is before you've heard my  
12:17:57 17 questions, right?

12:17:58 18 MR. DELL: Okay. We heard a relatively  
12:18:03 19 lengthy proffer with disturbing allegations. What we  
12:18:07 20 did not hear was a lot about Mr. Roncone himself. What  
12:18:12 21 we heard were allegations of guilt by association from  
12:18:18 22 what is, as of now, uncharged crimes. And we heard  
12:18:24 23 allegations of guilt by association with motorcycle  
12:18:28 24 clubs. What we do have, we have a 40-year-old with no  
12:18:34 25 criminal history, life-long residence of Western New

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12:18:38 2 York, who is employed, who has retained an attorney. I  
12:18:43 3 would note that the funds listed in the Pretrial  
12:18:47 4 Services Report, that is mostly a settlement for the  
12:18:49 5 house that was burned down, that is the source of the  
12:18:52 6 funds. But, in any event --

12:18:55 7 THE COURT: You mean the money that is in  
12:18:56 8 the M&T savings account?

12:19:00 9 MR. DELL: Correct, your Honor.

12:19:01 10 He lives with his father who is in the  
12:19:04 11 courtroom and --

12:19:06 12 THE COURT: His father is here. His father  
12:19:10 13 has appeared at a number -- I recognize his father.

12:19:17 14 MR. DELL: Okay, yes, that is his father.

12:19:18 15 THE COURT: I believe he has attended  
12:19:21 16 proceedings in connection with the Kingsmen matter, if I  
12:19:26 17 am recognizing him. I mean, I am familiar with him.

12:19:32 18 MR. DELL: Okay. He is willing to post his  
12:19:34 19 house that he owns free and clear.

12:19:38 20 THE COURT: His father owns the house free  
12:19:40 21 and clear?

12:19:40 22 MR. DELL: Correct, your Honor.

12:19:41 23 THE COURT: And the value of that?

12:19:44 24 Because I know Judge Schroeder had set the  
12:19:49 25 \$100,000 bail amount and was anything done to, I

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12:19:55 2 guess --

12:19:56 3 MR. DELL: What happened, your Honor, was I  
12:19:58 4 think the day later, that day or the next day, I  
12:20:01 5 received an e-mail from the U.S. Attorney's Office  
12:20:03 6 asking for a number of documents and I obtained those  
12:20:07 7 from Mr. Roncone and forwarded them. I don't remember  
12:20:10 8 exactly what docket or, I mean, what document it was.  
12:20:13 9 It listed it as a \$177,000.

12:20:18 10 THE COURT: \$177,000.

12:20:20 11 MR. DELL: Correct, your Honor.

12:20:21 12 THE COURT: The value of the home?

12:20:23 13 MR. DELL: Correct.

12:20:23 14 THE COURT: And do you have any information  
12:20:25 15 about that?

12:20:25 16 MR. COOPER: Judge, I do. Kathy Reimen from  
12:20:28 17 the U.S. Attorney's is in charge of assessing that and I  
12:20:31 18 believe I saw an e-mail yesterday from her indicating  
12:20:34 19 that there was sufficient equity in the property.

12:20:37 20 THE COURT: To secure the \$100,000 bail that  
12:20:42 21 Judge Schroeder set?

12:20:43 22 MR. COOPER: That's correct.

12:20:44 23 THE COURT: Your point in your argument, Mr.  
12:20:47 24 Cooper, was that Mr. Roncone has significant assets  
12:20:50 25 above and beyond the value of his father's home, right?

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12:20:54 2 MR. COOPER: Yes, Judge.

12:20:55 3 THE COURT: The e-mail referred to by Mr.  
12:21:00 4 Cooper was confirming that the U.S. Attorney's Office  
12:21:03 5 has accepted that house as surety if these conditions of  
12:21:10 6 release remain.

12:21:11 7 MR. DELL: And I also know that the  
12:21:13 8 Probation Department went to the house yesterday and  
12:21:17 9 it's been approved by the Probation Department as well.

12:21:21 10 THE COURT: Is that correct?

12:21:22 11 PROBATION: That's correct, your Honor.

12:21:24 12 MR. DELL: So I submit that he is not a  
12:21:29 13 flight risk. And I also point to the other conditions,  
12:21:33 14 which includes a GPS monitor. Mr. Roncone has no  
12:21:37 15 problem with that, so the government will have access to  
12:21:41 16 knowing where he is at all times.

12:21:44 17 As with regard to the guns, which were all  
12:21:50 18 legally possessed, as far as I know, apart from the  
12:21:54 19 charge in this case, they've all been taken and my  
12:22:00 20 understanding is a condition of release, there will be  
12:22:02 21 no guns in the home.

12:22:05 22 THE COURT: Well, he resides with his  
12:22:07 23 father. I guess one of the things that was not  
12:22:09 24 addressed by Judge Schroeder is whether or not the  
12:22:14 25 father has any firearms in the home, I guess, separate

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12:22:18 2 and apart from what was seized. I guess we're assuming  
12:22:21 3 no since presumably everything was seized.

12:22:25 4 MR. DELL: Well, probation did check the  
12:22:27 5 house and I'm assuming there were no firearms in the  
12:22:29 6 house. And the father certainly understands that if his  
12:22:33 7 son is released to that house, that there are to be no  
12:22:37 8 firearms, even though they have both been lifetime  
12:22:40 9 hunters, but there will be no firearms in the house.

12:22:43 10 THE COURT: And has probation confirmed  
12:22:45 11 that?

12:22:46 12 PROBATION: Yes, your Honor. I received an  
12:22:47 13 e-mail from the officer that did the home inspection and  
12:22:50 14 he reported that the defendant's father reports that all  
12:22:54 15 28 firearms were removed from the residence. It does  
12:22:58 16 not state specifically if they were, but it says no  
12:23:02 17 weapons were observed by the officer who did the home  
12:23:05 18 inspection.

12:23:05 19 THE COURT: Okay.

12:23:08 20 PROBATION: It was not in plain view.

12:23:10 21 THE COURT: Okay. Do you want to address  
12:23:14 22 what I would characterize as some of the more serious  
12:23:17 23 allegations involving an alleged communication between  
12:23:21 24 your client and Mr. Knight where a photograph of a  
12:23:25 25 federal witness who is now deceased was sent.

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12:23:28 2 MR. DELL: I did speak to him about that and  
12:23:30 3 he acknowledges the conversation and what he tells me is  
12:23:35 4 during the conversation, he did -- he did like a Google  
12:23:40 5 search for Crystal Quinn and came up with a Facebook  
12:23:44 6 profile and took a screen shot and sent it and basically  
12:23:48 7 said, is this who you're talking about?

12:23:54 8 THE COURT: Okay. But I guess the  
12:23:57 9 circumstances are concerning.

12:24:01 10 MR. DELL: I understand inferences can be  
12:24:03 11 made, but at the same time, in real life, I think people  
12:24:07 12 are always communicating with their smart phone with  
12:24:11 13 their friends and with their associates and they talk  
12:24:14 14 about things that are in the news and things that  
12:24:17 15 happen. And if a friend of his tells him, hey, the feds  
12:24:23 16 talked to me today, you know, about this person, I don't  
12:24:28 17 think that is necessarily an inference of any relation  
12:24:34 18 to the incident.

12:24:35 19 THE COURT: Well, but what the government is  
12:24:37 20 representing is that Mr. Roncone, in his leadership  
12:24:40 21 position with the Rare Breed Motorcycle Club, was the  
12:24:45 22 recipient of updates from and reports from members of  
12:24:51 23 the organization about the government's investigation.  
12:24:54 24 And when they were interviewed, they would report to Mr.  
12:24:57 25 Roncone and then he would report to the alleged

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12:25:03 2 international president of the Outlaws Motorcycle Club  
12:25:06 3 who the government believes was involved in arranging,  
12:25:11 4 essentially, for a hit on this federal witness.

12:25:16 5 MR. DELL: So from what we hear today, such  
12:25:19 6 speculation can be made.

12:25:21 7 THE COURT: I think it's more than  
12:25:22 8 speculation. I think that what has been proffered is  
12:25:25 9 more than speculation. I mean, you can -- it's  
12:25:29 10 circumstantial evidence. Is it compelling  
12:25:32 11 circumstantial evidence, I guess I don't know, but it's  
12:25:36 12 circumstantial evidence that there are communications  
12:25:39 13 between your client and individuals who were being  
12:25:46 14 investigated by law enforcement about the death of this  
12:25:48 15 witness. And then he was communicating with an  
12:25:53 16 individual who has at least been proffered in other --  
12:25:58 17 in another detention hearing, had been meeting with Mr.  
12:26:01 18 Gerace who allegedly had the motive to arrange for this  
12:26:05 19 woman to be killed.

12:26:07 20 MR. DELL: He certainly knows these people,  
12:26:09 21 your Honor. And when important events are going on like  
12:26:13 22 that, one talks to the people that they know. But  
12:26:16 23 importantly, there has been no nexus proffered by the  
12:26:20 24 government. There is nothing placing -- there is  
12:26:22 25 nothing proffered placing Roncone at this poker game

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12:26:25 2 that was discussed, nor Gogolack's residence.

12:26:31 3 THE COURT: The Akron, New York residence,  
12:26:34 4 where is that? Because I don't think Akron is near  
12:26:38 5 Wellsville, but maybe I'm wrong. But he reported to  
12:26:43 6 Pretrial Services that he resided at this Akron, New  
12:26:47 7 York residence.

12:26:48 8 MR. DELL: That is not the residence that  
12:26:50 9 burned down. The residence that burned down was on  
12:26:53 10 Scott, 42 Scott Avenue.

12:27:01 11 Who did you live with on Akron.

12:27:03 12 THE DEFENDANT: An ex-girlfriend. That is  
12:27:05 13 where I lived prior to my parents.

12:27:08 14 MR. DELL: When the house burned down, he  
12:27:10 15 move in with an ex-girlfriend.

12:27:14 16 THE COURT: When did the house burn down on  
12:27:14 17 --

12:27:16 18 THE DEFENDANT: I lived in Akron well before  
12:27:21 19 Wellsville.

12:27:22 20 MR. DELL: So you were back and forth.

12:27:23 21 THE DEFENDANT: It was a back and forth.

12:27:25 22 And then after that was over, I moved in with my parents  
12:27:28 23 and then I got a job down in Wellsville and I relocated  
12:27:32 24 there.

12:27:32 25 MR. DELL: I don't know if you can hear

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12:27:34 2 that, your Honor.

12:27:37 3 THE COURT: Yes, I did.

12:27:39 4 Did you get that, Karen?

12:27:42 5 COURT REPORTER: Yes.

12:27:42 6 THE COURT: So is your client admitting that

12:27:44 7 he lived in the clubhouse in Wellsville, that you lived  
12:27:48 8 in?

12:27:49 9 MR. DELL: They held the meeting in his  
12:27:53 10 residence until it burned down.

12:27:55 11 THE COURT: How long did he live in  
12:27:57 12 Wellsville.

12:27:57 13 MR. DELL: For about four years, I believe.

12:28:00 14 THE COURT: And I'm just having trouble  
12:28:02 15 following. Okay. He reported he lived with his  
12:28:08 16 parents, he lived at this Wellsville, 42 Scott Avenue  
12:28:12 17 for four years.

12:28:13 18 MR. DELL: That is the one that burned down.

12:28:15 19 THE COURT: But relocated after a house  
12:28:20 20 fire. When you say you lived in Akron, New York for  
12:28:23 21 three years prior to that, you mean prior to the house  
12:28:26 22 fire?

12:28:27 23 THE DEFENDANT: No, prior to ever moving to  
12:28:29 24 Wellsville, your Honor.

12:28:30 25 THE COURT: Okay. So you lived with a

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12:28:32 2 girlfriend for three years, moved to Wellsville for four  
12:28:36 3 years, and then you move in with your parents or your  
12:28:39 4 dad.

12:28:39 5 THE DEFENDANT: There was a brief period I  
12:28:41 6 stayed with my family between Akron and Wellsville.

12:28:46 7 THE COURT: Okay.

12:28:52 8 PROBATION: Judge, I'm looking at the notes  
12:28:55 9 from the officer that did the interview, and that  
12:28:58 10 appears to be a little bit easier to read than what is  
12:29:02 11 in the paragraph. It appears he lived in Wellsville for  
12:29:05 12 four years, he is currently with his dad after the house  
12:29:08 13 fire, lived there for four years, but prior to that was  
12:29:13 14 with his parents for a year and before that was at the  
12:29:16 15 address in Akron with the girlfriend. I think it's  
12:29:19 16 chronologically going backwards, if that makes more  
12:29:22 17 sense.

12:29:23 18 THE COURT: Yeah, it does. Thank you,  
12:29:24 19 Officer Whitcomb.

12:29:25 20 PROBATION: Yes, Judge.

12:29:27 21 THE COURT: Do you want to address the drugs  
12:29:42 22 at all that were apparently found in the residence?

12:29:47 23 MR. DELL: Just to say, you already talked  
12:29:48 24 about marijuana yourself.

12:29:51 25 THE COURT: I'm not talking about the

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12:29:52 2 marijuana, I'm talking about the cocaine.

12:29:53 3 MR. DELL: As far as the cocaine --

12:29:55 4 THE COURT: Or alleged cocaine.

12:29:56 5 MR. DELL: That is a Penal Law 220. It's  
12:30:00 6 very trace, very trace amounts. I would say it could be  
12:30:06 7 consistent with what he said in pretrial that he  
12:30:11 8 occasionally used, last time six months ago. I would  
12:30:14 9 note that it was on a tray in a locked safe. I would  
12:30:18 10 also note that it was actually his dad's credit card  
12:30:21 11 that was on the tray, not his. It said "James Roncone."  
12:30:27 12 But I don't know what else to say.

12:30:34 13 As far as the merits of the present case, I  
12:30:38 14 mean, how do you define a drug user? I submit he was up  
12:30:46 15 front with pretrial. But as far as the danger to the  
12:30:51 16 community, I mean, the guns would no longer be in the  
12:30:55 17 house anyway, your Honor.

12:30:57 18 THE COURT: All right. Anything else, Mr.  
12:30:58 19 Dell?

12:30:59 20 MR. DELL: No, your Honor.

12:30:59 21 THE COURT: Let me ask probation, your  
12:31:02 22 recommendation is release with these conditions. Is  
12:31:05 23 that still after hearing the proffers by in front of  
12:31:10 24 both Schroeder and in front of me by the government, is  
12:31:14 25 that still probation's recommendation?

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12:31:18 2 PROBATION: Judge, I don't know the  
12:31:19 3 information that was proffered before Judge Schroeder,  
12:31:22 4 but clearly conditions were set by that judge after  
12:31:25 5 hearing the detention the proffers at the detention  
12:31:29 6 hearing. Given the information that was proffered here  
12:31:32 7 today, I think there are some things that would maybe  
12:31:35 8 raise some concern to think about it even a little bit  
12:31:39 9 more even after what his defense counsel said, maybe  
12:31:43 10 that credit card, I almost would question whether or not  
12:31:47 11 the father is in his house using drugs, whether or not  
12:31:50 12 that is an appropriate residence. If his father is also  
12:31:53 13 a drug user, if we need to consider a different address  
12:31:56 14 for release. But I don't necessarily think that those  
12:32:03 15 conditions are outlandish, Judge.

12:32:08 16 THE COURT: Is there a different address  
12:32:10 17 that Mr. Roncone could reside at? I guess it's not  
12:32:14 18 clear to me, Mr. Dell, are we suggesting that Mr.  
12:32:20 19 Roncone, the father, is the drug user and therefore --

12:32:23 20 MR. DELL: I guess this is what -- it was  
12:32:25 21 such a small amount and it was locked in the safe. I  
12:32:28 22 represent individuals in Federal Court all of the time  
12:32:32 23 with drug trafficking charges, and they are released to  
12:32:38 24 their homes, sometimes the home is searched.

12:32:41 25 THE COURT: Not usually with a number of

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12:32:43 2 firearms, though. In other words, oftentimes, let's  
12:32:47 3 face it, oftentimes in those circumstances, you probably  
12:32:50 4 have some kind of -- I mean there would be suspicion  
12:32:54 5 that they are a drug trafficker and even if just trace  
12:32:57 6 amounts of drugs are found with that number of firearms,  
12:33:00 7 you probably would have a 924(c) charge, which we  
12:33:04 8 obviously don't have here.

12:33:05 9 MR. DELL: No. And the firearms are no  
12:33:08 10 longer there, your Honor.

12:33:11 11 THE COURT: What about the drugs though? I  
12:33:13 12 mean, in other words, I think the question I have is is  
12:33:20 13 Mr. Roncone's father willing to -- sometimes we'll have  
12:33:28 14 third-party representations that -- and I'm not stating  
12:33:36 15 it correctly -- but if he is going to be residing with  
12:33:41 16 his father, if that is the proposal, what  
12:33:43 17 representations is his father willing to make about  
12:33:46 18 what's going to be at the house, what is the conduct and  
12:33:49 19 behavior that is going to be at the house.

12:33:51 20 THE COURT: He is here and I believe he will  
12:33:53 21 represent that there will be no guns and no drugs in  
12:33:56 22 that house.

12:33:58 23 THE COURT: Well, would he be able to swear  
12:34:00 24 under oath to that? Would he be willing to do that?

12:34:04 25 MR. DELL: Yes, your Honor.

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12:34:13 2 PROBATION: Judge, what you're referring to  
12:34:16 3 the third-party custodian.

12:34:17 4 THE COURT: Right.

12:34:18 5 PROBATION: And the other thing, to some of  
12:34:21 6 the other concerns I thought were raised, maybe also  
12:34:23 7 addressed with computer monitoring regarding any type of  
12:34:27 8 communications if that was also a concern, we do have  
12:34:30 9 that condition available as well.

12:34:32 10 THE COURT: Similar to what is imposed in  
12:34:35 11 child pornography cases, essentially.

12:34:37 12 PROBATION: Correct. We could monitor  
12:34:39 13 communications, any pictures submitted or text messages  
12:34:45 14 of any nature.

12:34:46 15 THE COURT: What is the defendant's position  
12:34:47 16 on that?

12:34:48 17 MR. DELL: He is fine with that, your Honor.

12:34:54 18 THE COURT: And does probation -- I think  
12:34:55 19 Judge Schroeder just set release was subject to  
12:35:02 20 probation's preference in terms of the monitoring, but  
12:35:06 21 indicated that it would be set by probation.

12:35:10 22 Officer Whitcomb, do you have --

12:35:14 23 PROBATION: I'm looking at the order right  
12:35:15 24 now. Curfew to be set by the probation office and it is  
12:35:19 25 GPS monitoring.

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12:35:21 2 THE COURT: And you're not suggesting  
12:35:23 3 anything more significant or restrictive?

12:35:27 4 PROBATION: I mean, home detention might be  
12:35:30 5 more appropriate to start, Judge. And with a period of  
12:35:34 6 compliance, you know, move to curfew if that would  
12:35:38 7 alleviate concerns.

12:35:39 8 THE COURT: What is the defendant's position  
12:35:41 9 on that, Mr. Dell?

12:35:42 10 MR. DELL: He is fine with it. What he just  
12:35:44 11 asked me, he is concerned that he wants to be able to go  
12:35:47 12 to work.

12:35:48 13 THE COURT: Home detention allows the  
12:35:49 14 individual to work, go to medical appointments, you just  
12:35:52 15 have to coordinate it with the probation office.

12:35:56 16 MR. DELL: That's fine, your Honor.

12:36:04 17 THE COURT: One question I have is, I know  
12:36:10 18 in having sentenced individuals who were convicted of  
12:36:16 19 racketeering activity related to motorcycle  
12:36:21 20 organizations, that there is typically a condition of  
12:36:24 21 release included in the sentence that they have to avoid  
12:36:30 22 any association with motorcycle organizations, including  
12:36:35 23 wearing the patching and so forth. Now, that is not  
12:36:37 24 part of the proposed conditions from probation and there  
12:36:45 25 is a condition that you have to avoid all contact with

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12:36:48 2 co-defendants and defendants in related cases unless  
12:36:52 3 approved by pretrial services. But, there is not that  
12:36:56 4 proposed condition that you have as part of supervised  
12:37:02 5 release.

12:37:02 6 PROBATION: Judge, we can certainly add that  
12:37:04 7 as a special condition that he not be affiliated with  
12:37:07 8 any motorcycle clubs during the term of pretrial  
12:37:12 9 supervision. But him residing at his father's address,  
12:37:15 10 I think, would also make that difficult. If there is  
12:37:17 11 any other items in the residence, his father would have  
12:37:22 12 to agree to that as well.

12:37:24 13 THE COURT: Mr. Dell, what is the  
12:37:25 14 defendant's position on that?

12:37:29 15 MR. DELL: They are both agreeable to that,  
12:37:31 16 your Honor.

12:37:34 17 THE COURT: All right. Anything else from  
12:37:35 18 the defense.

12:37:36 19 MR. DELL: No, your Honor.

12:37:37 20 THE COURT: Mr. Cooper, anything else from  
12:37:38 21 the government? I'll tell you what I'm thinking of  
12:37:44 22 doing. I'm thinking of taking another break and I'll  
12:37:47 23 probably put a decision on the record. So, speak now or  
12:37:50 24 forever hold your peace.

12:37:52 25 MR. COOPER: Judge, just, I guess, my final

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12:37:57 2 couple of points would be, first of all, that that  
12:38:00 3 Wellsville address on Scott Avenue, just so the Court is  
12:38:05 4 aware, Scott Avenue is the same street that Crystal  
12:38:08 5 Quinn was found dead on. It's in very close spacial  
12:38:12 6 proximity, just to point that out, because it may not  
12:38:15 7 have been apparent to your Honor. The next thing --

12:38:17 8 THE COURT: Do you know the address where  
12:38:19 9 she was found?

12:38:19 10 MR. COOPER: 296 Scott Avenue, but it's -- I  
12:38:24 11 can represent to your Honor, that is not like a very  
12:38:27 12 long street or very large area geographically, so it's  
12:38:31 13 within minutes walking of that location. So close to  
12:38:37 14 Gogolack. That is where the defendant was living for  
12:38:38 15 years before the house burned down.

12:38:41 16 THE COURT: But he wasn't living there at  
12:38:42 17 the time --

12:38:43 18 MR. COOPER: Absolutely.

12:38:43 19 THE COURT: -- that she died?

12:38:46 20 MR. COOPER: Correct, Judge. And the other  
12:38:48 21 thing I would point out, it's the government's position  
12:38:50 22 there are no condition or combination of conditions and  
12:38:54 23 that home detention with GPS does not prevent flight  
12:38:57 24 from a person who is determined to flee. The GPS  
12:39:02 25 monitors come off when a person wants them off. And so

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12:39:05 2 I'm not being, obviously, not intending to be  
12:39:09 3 disrespectful to probation or to their position, but  
12:39:12 4 it's the government's position that that does not ensure  
12:39:16 5 a person's return to not to flee and this person has the  
12:39:23 6 financial means and organizational ties to be able to so  
12:39:23 7 that.

12:39:29 8 THE COURT: All right. Thank you, Mr.  
12:39:30 9 Cooper. Let's take a -- why don't we resume back here  
12:39:33 10 at 1 o'clock, if we can, and I'll announce what my  
12:39:39 11 decision is.

12:39:39 12 (Whereupon, here was a break in the  
12:39:39 13 proceeding.)

13:10:53 14 Remind me, Mr. Cooper, what the potential  
13:10:56 15 maximum penalty is for the crime that Mr. Roncone is  
13:10:59 16 facing.

13:11:00 17 MR. COOPER: Fifteen-year statutory maximum  
13:11:04 18 under, I believe, section 922(G) was amended recently to  
13:11:09 19 increase the statutory minimum from 10 to 15 years.

13:11:12 20 THE COURT: I knew it was amended for felon  
13:11:14 21 in possession of a firearm. It also applies for any  
13:11:18 22 922(g)?

13:11:19 23 MR. COOPER: I just -- I researched it  
13:11:23 24 recently. I believe that was the answer I came up with.

13:11:26 25 THE COURT: Do you agree with it, Mr. Dell?

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13:11:29 2 MR. DELL: I don't disagree with it, but I'm  
13:11:33 3 not certain.

13:11:33 4 MR. COOPER: I can check.

13:14:48 5 THE COURT: Confirming it is 922(g).

13:14:52 6 MR. COOPER: So in Title 18 U.S.C. Section  
13:14:57 7 924(a)(6)(B), I believe, is the -- I'm sorry, not (6)(B)  
13:15:13 8 924(a)(8). I'm sorry, Judge. "Whoever knowingly  
13:15:15 9 violates subsection (d) or (g) of section 922 should be  
13:15:21 10 fined under this title, imprisoned for not more than 15  
13:15:24 11 years or both." And there is not any specification --

13:15:27 12 THE COURT: Of subsection of (g).

13:15:28 13 MR. COOPER: So it covers (g) entirely.

13:15:30 14 THE COURT: Okay. That makes sense.

13:15:40 15 All right. So thank you, everybody for your  
13:15:45 16 presentations. So I'm ready to put a decision into the  
13:15:49 17 record.

13:15:49 18 The Bail Reform Act of 1984, which is  
13:15:53 19 statutorily found at 18 or codified at Title 18 U.S.C.  
13:15:59 20 Section 3141, *et seq*, authorizes and sets forth the  
13:16:04 21 procedures for the release or detention of a person  
13:16:06 22 pending trial, sentence and appeal. The procedures and  
13:16:10 23 standards for release or detention of a person, such as  
13:16:13 24 Mr. Roncone, pending trial, are set forth at 18 U.S.C.  
13:16:18 25 Section 3142. A defendant awaiting trial must be

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13:16:23 2 released unless the release will present a risk of  
13:16:27 3 flight or dangerousness or both, and no set of  
13:16:31 4 conditions can reasonably eliminate those risks.

13:16:35 5 Although there is only a limited group of  
13:16:37 6 offenders who should be denied bail pending trial, when  
13:16:42 7 there is "a strong probability that a person will commit  
13:16:46 8 additional crimes if released, the need to protect the  
13:16:49 9 community becomes sufficiently compelling that detention  
13:16:53 10 is, on balance, appropriate." *United States v.*  
13:16:58 11 *Chimurenga*, 760 F. 2d 400 page 403, Second Circuit case  
13:17:04 12 from 1985.

13:17:06 13 At all times the government retains the  
13:17:09 14 ultimate burden of persuasion. The burden of proof with  
13:17:13 15 respect to risk of flight is preponderance of the  
13:17:17 16 evidence. On the other hand, the government must  
13:17:19 17 demonstrate by clear and convincing evidence that a  
13:17:23 18 defendant should not be released due to his risk of  
13:17:26 19 danger. Clear and convincing evidence means something  
13:17:29 20 more than preponderance of the evidence and something  
13:17:32 21 less than beyond a reasonable doubt. In other words,  
13:17:35 22 the evidence must support a conclusion of danger to the  
13:17:38 23 community with a high degree of certainty.

13:17:42 24 In reviewing a detention order of a  
13:17:45 25 magistrate judge, such as I'm doing here, a district

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13:17:49 2 judge should not simply defer to the judgment of the  
13:17:52 3 magistrate judge but rather must reach their own  
13:17:55 4 independent conclusion. When making a *de novo* review, a  
13:18:01 5 district judge may rely on the record of the proceedings  
13:18:03 6 before the magistrate judge and may also accept  
13:18:06 7 additional evidence.

13:18:07 8 So there are four factors under 3142(g) that  
13:18:12 9 I must consider when determining whether or not  
13:18:16 10 sufficient conditions could protect against any  
13:18:19 11 potential risk of flight or risk of danger. The first  
13:18:22 12 factor considers the nature and circumstances of the  
13:18:26 13 offense charged, including whether the offense is a  
13:18:29 14 crime of violence or whether the offense involves a  
13:18:32 15 firearm. The second factor is the weight of the  
13:18:38 16 evidence. The third factor to be considered is the  
13:18:43 17 history and characteristics of the person, including the  
13:18:47 18 person's character, physical and mental condition,  
13:18:50 19 family ties, employment, financial resources, length of  
13:18:54 20 residence in the community and community ties, past  
13:18:58 21 conduct, history relating to drug or alcohol abuse,  
13:19:02 22 criminal history, record concerning appearances in court  
13:19:06 23 proceedings, and whether or not the defendant was on  
13:19:08 24 parole, probation or release at the time of the offense.  
13:19:12 25 And then the fourth factor to be considered

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13:19:15 2 is the nature and seriousness of the danger to any  
13:19:18 3 person or the community that would be posed by the  
13:19:21 4 person's release. Just addressing some of the case law  
13:19:26 5 before I get into the specifics of the facts here.  
13:19:34 6 Well, Mr. Tripi, the other day at Mr. Ermin's detention  
13:19:41 7 proceeding cited the case of *United States v. Cerillo*,  
13:19:45 8 149 F. Appx. 40, Second Circuit case from September of  
13:19:51 9 2005, in support of the notion that it would be  
13:19:54 10 appropriate to detain somebody if there is proof that  
13:19:58 11 that person has a leadership role in an organization and  
13:20:03 12 there is proof that the organization engages in acts of  
13:20:08 13 violence. I don't disagree with that general notion,  
13:20:17 14 but I would note for the record, in that case, the  
13:20:20 15 defendant was indicted on substantive and conspiratorial  
13:20:25 16 charges of racketeering. And to give an example of the  
13:20:28 17 kind of proof that was presented that the Second Circuit  
13:20:32 18 found sufficient under those circumstances, there was  
13:20:35 19 testimony of an FBI agent with particular expertise in  
13:20:39 20 the Genovese crime family, which was at issue in that  
13:20:44 21 case. There was corroborative recorded conversations  
13:20:47 22 among organized crime members. There was a list of  
13:20:51 23 potential new members of the Genovese family recovered  
13:20:55 24 from the defendant's home on the date of the arrest.  
13:20:58 25 There was the government's proffer of the existence of

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13:21:02 2 anticipated trial evidence, including testimony from  
13:21:06 3 seven cooperating witnesses, a host of surveillance  
13:21:10 4 photographs and transcripts of recorded conversations.

13:21:14 5 There is also a number of other Second  
13:21:18 6 Circuit cases that have dealt with detaining a defendant  
13:21:23 7 who has a leadership role in a criminal enterprise and  
13:21:26 8 there is proof that that criminal enterprise or just  
13:21:31 9 enterprise, even, for that matter, was engaged in acts  
13:21:34 10 of violence. And I have a summary of those cases in a  
13:21:39 11 decision I issued in *United States v. Enix*, 209 F. Supp  
13:21:44 12 3d 557, Western District of New York from 2016. And the  
13:21:51 13 summary is at pages 570 through 572. And I've updated  
13:22:00 14 the research since then, and I don't think the general  
13:22:03 15 legal premises is any different, that if there is proof  
13:22:06 16 that an individual has a leadership role in an  
13:22:11 17 organization and there is proof that that organization  
13:22:14 18 regularly engages in acts of violence, then that could,  
13:22:18 19 even without proof that the defendant himself was  
13:22:21 20 engaged in acts of violence, that could constitute clear  
13:22:25 21 and convincing evidence of a risk of danger that no  
13:22:28 22 conditions could protect against. But, as we know, when  
13:22:32 23 I asked Mr. Cooper as to whether or not the government  
13:22:35 24 had any proffer of any acts of violence by the Rare  
13:22:40 25 Breeds Motorcycle Club, the government does not.

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13:22:44 2 So I think there is clearly proof here that  
13:22:47 3 Mr. Roncone had a leadership role in connection with the  
13:22:52 4 Rare Breeds Motorcycle Club, that I do find that the  
13:22:58 5 government's proffer in that regard is sufficient to  
13:23:00 6 establish that. But I do not find that there has been a  
13:23:03 7 proffer of acts of violence being engaged in by the Rare  
13:23:09 8 Breed Motorcycle Club so that I could conclude, just  
13:23:12 9 based on Mr. Roncone's leadership role in the  
13:23:16 10 organization, that he presents a risk of danger if  
13:23:20 11 released.

13:23:21 12 Now here, Mr. Roncone is charged with a  
13:23:23 13 violation of Title 18 U.S.C. Section 922(g)(3). That  
13:23:29 14 charges, we've just confirmed, carries a maximum term of  
13:23:35 15 15 years in prison. And the government has represented  
13:23:37 16 that the Sentencing Guidelines would recommend an  
13:23:39 17 approximate two to four-year prison sentence. That is a  
13:23:42 18 serious charge. I'm not suggesting that it's not a  
13:23:45 19 serious charge, but it's certainly not the type of  
13:23:47 20 charge that typically results in detention. Instead,  
13:23:51 21 the government is focused on the seriousness of the  
13:23:55 22 charges that it's investigating to support its  
13:23:58 23 contention that detention is warranted here. And while  
13:24:02 24 I agree with the government that a court can and should  
13:24:05 25 consider evidence outside of the four corners of the

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13:24:08 2 Complaint, I disagree that because the government is  
13:24:13 3 investigating charges that are serious, as the  
13:24:16 4 government suggests is reflected by attachment B to its  
13:24:20 5 search warrant, that that means that a defendant should  
13:24:23 6 be detained. In my opinion, that would be turning the  
13:24:26 7 Bail Reform Act on its head that just because the  
13:24:30 8 government says, well, the charges we are investigating  
13:24:33 9 are serious, that then you necessarily detain a  
13:24:36 10 defendant. I don't think that is the proper way to look  
13:24:40 11 at evidence outside of what's charged in the Criminal  
13:24:44 12 Complaint. Now, a defendant can be detained based on  
13:24:49 13 uncharged conduct, no question about it. But there has  
13:24:52 14 to be evidence to support the conclusion of either a  
13:24:58 15 risk of flight or danger to the community. And so what  
13:25:02 16 do we have here? We have Mr. Roncone, I agree, was a  
13:25:07 17 leader of the Rare Breeds Motorcycle Club. I think the  
13:25:11 18 most -- well, let me back up a second. There is  
13:25:16 19 evidence of the number of guns at his residence, that is  
13:25:20 20 troubling. That is a lot of firearms. When you couple  
13:25:23 21 that with the evidence of the drugs in the residence,  
13:25:27 22 that certainly indicates criminal conduct. The most  
13:25:33 23 troubling aspect of this, no question about it, is the  
13:25:37 24 death of Ms. Quinn and the connection that that death  
13:25:42 25 had to the Gerace trial. There is evidence that has

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13:25:50 2 been proffered of a connection between Mr. Gerace and  
13:25:54 3 the Outlaws Motorcycle Club, that seems pretty apparent  
13:25:58 4 from the number of individuals associated with that club  
13:26:00 5 that work at Pharaoh's and the visits that were detailed  
13:26:04 6 in the proffer by Mr. Tripi in connection with Mr.  
13:26:09 7 Ermin's detention hearing of Mr. Ermin visiting Mr.  
13:26:14 8 Gerace at the jail. There is clearly a relationship  
13:26:17 9 between the Outlaws Motorcycle Club and the Rare Breed  
13:26:21 10 Motorcycle Club. From all, what it appears, it's a  
13:26:24 11 feeder club to the or support club of the Outlaws  
13:26:30 12 Motorcycle Club. There is a connection between the Rare  
13:26:33 13 Breed Motorcycle Club and Pharaoh's based on the proffer  
13:26:37 14 from Mr. Cooper. And I'm deeply troubled, to be up  
13:26:43 15 front with you, about these communications between Mr.  
13:26:48 16 Roncone and Mr. Knight on August 3rd, and subsequent  
13:26:54 17 communications between Mr. Roncone with Mr. Ermin at  
13:27:01 18 times, and it's not specific, and the government hasn't  
13:27:04 19 been specific about it, and I'm not -- let me be clear.  
13:27:09 20 I'm not criticizing the government. I appreciate that  
13:27:12 21 you're in the midst of a realtime investigation and  
13:27:15 22 you're also trying to get ahead of it by trying to  
13:27:20 23 detain certain individuals, but it's not specific, but  
13:27:24 24 there is at least some evidence in the record of  
13:27:27 25 communications between Mr. Roncone and Mr. Ermin that is

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13:27:37 2 temporarily close in time to significant events during  
13:27:39 3 the government's investigation. And that is concerning.  
13:27:45 4 No question about it.

13:27:49 5 And the text messages that Mr. Cooper read  
13:27:51 6 into the record from Ms. Quinn to both Mr. Gogolack and  
13:27:56 7 then to this person who was in her contacts who she was  
13:28:01 8 texting the wrong number, that certainly seems to  
13:28:04 9 suggest that during the early morning hours of July  
13:28:07 10 28th, she was indicating that she thought there was a  
13:28:13 11 risk of danger to her and potentially Mr. Gogolack from,  
13:28:20 12 I think, no question, members of the Rare Breeds  
13:28:24 13 Motorcycle Club. But there has been no evidence that  
13:28:27 14 Mr. Roncone was even in the area at the time or that he  
13:28:32 15 was present during any of this. He has no criminal  
13:28:37 16 record. He is gainfully employed. He is a lifelong  
13:28:42 17 resident of the area. And I do find, based on my  
13:28:46 18 consideration of all of the relevant factors, there is a  
13:28:49 19 risk of danger and there is a risk of flight. No  
13:28:52 20 question. But I do think that sufficient conditions can  
13:28:55 21 be put in place to protect against those risks. And  
13:28:59 22 those conditions are as follows.

13:29:02 23 In addition to all of the conditions that  
13:29:05 24 Judge Schroeder imposed, I'm going to increase the  
13:29:08 25 security that has to be posted to \$100,000 secured by

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13:29:15 2 Mr. Roncone's father's residence, and \$100,000 in cash.

13:29:21 3 I'm going to change the electronic monitoring from a

13:29:25 4 curfew as set by probation.

13:29:32 5 Is there something.

13:29:32 6 PROBATION: No.

13:29:33 7 THE COURT: A curfew that is set by  
13:29:37 8 probation to home detention. Mr. Roncone's father has  
13:29:43 9 to agree to be a third-party custodian, which means that  
13:29:47 10 he is going to accept responsibility for Mr. Roncone,  
13:29:52 11 the defendant's, compliance with the conditions of  
13:29:56 12 release that have been set in this case, which would  
13:29:59 13 include no firearms or drugs in the residence.

13:30:03 14 And I'm going to impose a computer  
13:30:06 15 monitoring condition, which means that Mr. Roncone will  
13:30:12 16 participate in the computer internet monitoring program  
13:30:16 17 administered by the U.S. Probation office. And then  
13:30:20 18 finally, in addition, I'm going to restrict Mr. Roncone  
13:30:24 19 from any association and membership with any motorcycle  
13:30:29 20 club gang, including, but not limited to the Rare Breeds  
13:30:35 21 Motorcycle Club and the Outlaws Motorcycle Club. This  
13:30:38 22 means that he shall not pay dues, attend meetings,  
13:30:41 23 participate in mandatory runs or wear the clothing,  
13:30:44 24 colors, patch or insignia of any such club. Further he  
13:30:48 25 shall not attend functions sponsored by such clubs, even

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13:30:52 2 if the function is open to citizens, the public. He  
13:30:56 3 shall remove all insignia or emblems associating him  
13:31:00 4 with the Rare Breeds Motorcycle Club or Outlaws  
13:31:05 5 Motorcycle Club from his home, motorcycle, vehicle or  
13:31:09 6 other property.

13:31:11 7 And a violation of any of these conditions  
13:31:15 8 would not only result in potential further criminal  
13:31:20 9 prosecution, but, in addition, he would risk forfeiting  
13:31:26 10 the security that has been posted. In other words, the  
13:31:30 11 security is posted to secure not only his appearance and  
13:31:34 12 attendance at court proceedings, but also his compliance  
13:31:37 13 with these conditions that I would be setting.

13:31:42 14 Now, if, in fact, the security, the cash  
13:31:47 15 security ends up creating an issue either with  
13:31:53 16 attorney's fees or an issue with respect to living  
13:31:57 17 expenses, defense counsel can always make an  
13:32:00 18 application. I would want application made to me as  
13:32:04 19 opposed to the magistrate judge since I'm the one that  
13:32:08 20 is setting this condition, but that is what I think is  
13:32:11 21 reasonable under the circumstances here.

13:32:14 22 Mr. Dell, any questions?

13:32:16 23 MR. DELL: Just with regard to that last  
13:32:20 24 bit, I think \$100,000 pretty much taps him out. If the  
13:32:24 25 court would consider making that 80 or 90 so he can have

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13:32:30 2 some breathing room.

13:32:31 3 THE COURT: I don't think it taps him out  
13:32:33 4 based on what is in the Pretrial Services Report. And  
13:32:36 5 if it creates an issue, then come to me and make an  
13:32:39 6 application for it. In other words, I don't know, as I  
13:32:42 7 sit here, all I have is in front of me regarding Mr.  
13:32:45 8 Roncone's finances is what is included in the Pretrial  
13:32:51 9 Services Report. So he is living with his father, I  
13:32:56 10 mean, I mean, the expenses are detailed in the Pretrial  
13:33:01 11 Services Report, but they don't amount to anything of  
13:33:03 12 any significance. And that leaves him with, according  
13:33:08 13 to this, in my estimation, plenty of cash on hand to  
13:33:16 14 survive at least for the foreseeable future, especially  
13:33:21 15 since he is employed. If it ends up being the case, I'm  
13:33:25 16 not going to be unreasonable about it.

13:33:27 17 Any questions, Mr. Cooper?

13:33:28 18 MR. COOPER: Just one question, Judge, and I  
13:33:31 19 don't work on CB cases at all and so I'm a bit  
13:33:36 20 unfamiliar with the computer monitoring condition. I  
13:33:40 21 just wanted to ask a clarification question. Is it the  
13:33:43 22 Court's extension that it extends to cell phones and  
13:33:46 23 smart phones, and if so, will there be an additional  
13:33:49 24 restriction on possessing or having access to drop  
13:33:53 25 phones or burner phones other than the one that is

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13:33:56 2 monitored by probation?

13:33:58 3 THE COURT: I would answer that question,

13:34:00 4 but I'm going to turn to Officer Whitcomb here.

13:34:02 5 PROBATION: Yes. So the computer monitoring

13:34:05 6 condition covers any devices that has access to the

13:34:09 7 internet that can be monitored by our software. So the

13:34:13 8 defendant would not be able to have any access to any

13:34:16 9 devices that we cannot monitor. So his phone that he

13:34:21 10 has, needs to either be a flip phone, per se, that

13:34:26 11 doesn't have access to the internet or it can be an

13:34:29 12 Android or Windows-type smart phone that we can put the

13:34:33 13 monitoring. There are certain types of operating

13:34:37 14 systems that we cannot monitor and the defendant would

13:34:39 15 not be permitted to possess those devices. Any devices

13:34:43 16 within the defendant's residence, because he is living

13:34:46 17 with his father, would have to be password protected or

13:34:49 18 in some way either removed from the home so the

13:34:52 19 defendant does not have access to those and we'll check

13:34:56 20 those on a regular basis.

13:34:57 21 THE COURT: So in response to your question

13:34:59 22 about the burner phone, yes, part of the requirement,

13:35:02 23 there has to be disclosure to the probation office of

13:35:05 24 any computer devices including phones within the

13:35:08 25 defendant's possession or within his access or in the

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13:35:11 2 home. Right, Officer Whitcomb?

13:35:13 3 PROBATION: Yes. And that is all devices -  
13:35:15 4 smart TVs, any type of gaming systems of that nature  
13:35:19 5 that do have access to the internet, he would not be  
13:35:23 6 able to have access to that whatsoever, and he has to  
13:35:26 7 disclose that at the beginning of his supervision.

13:35:29 8 MR. COOPER: Perfect. And the follow up on  
13:35:32 9 the same subject, I am peripherally familiar with the  
13:35:39 10 *United States v. Levon Parks* where there was a similar  
13:35:41 11 condition regarding cell phone usage and some type and a  
13:35:44 12 cell phone was ultimately found inside the residence and  
13:35:47 13 that defendant, who was residing with a family, and just  
13:35:52 14 attributed to the family member. What is the mechanism  
13:35:55 15 to prevent that from happening?

13:35:57 16 THE COURT: Well, one, I would say is the  
13:35:59 17 fact that the only other person in the residence is  
13:36:02 18 going to have to be a third-party custodian here. So,  
13:36:06 19 Mr. Roncone, the father, is going to be responsible for  
13:36:10 20 ensuring that the defendant complies with these terms  
13:36:14 21 and conditions. So, for instance, hypothetically  
13:36:18 22 probation shows up and finds a phone that they are  
13:36:22 23 unaware of at the home and there is only two people in  
13:36:26 24 the home, then there is no way that there can be any  
13:36:30 25 disclaiming of responsibility. Does that answer your

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13:36:34 2 question?

13:36:35 3 MR. COOPER: I guess my concern is that any  
13:36:38 4 phone that is not the one that is being monitored, if a  
13:36:41 5 phone is discovered, they are going to say that is dad's  
13:36:44 6 phone, not mine, and dad's phones are not being  
13:36:48 7 monitored. I'm not trying to be obtuse.

13:36:50 8 PROBATION: I understand what you are saying  
13:36:51 9 as well. Mr. Roncone, the father, would have to  
13:36:54 10 indicate that that phone is password protected and that  
13:36:59 11 Mr. Roncone, the defendant, does not have access to that  
13:37:03 12 device. If we show up at the residence and find that is  
13:37:06 13 not password protected that or the defendant has access  
13:37:09 14 to it, that is a violation of his conditions.

13:37:11 15 MR. COOPER: And we take -- we're  
13:37:13 16 essentially left with the word of the father that he is  
13:37:16 17 not accessing it, right? I understand. I just want to  
13:37:19 18 fully understand.

13:37:20 19 THE COURT: Yeah. Is it 100 percent  
13:37:23 20 guarantee? No. But my view is the fact that \$200,000  
13:37:28 21 is being posted as security, and I'm saying right here  
13:37:32 22 that if these conditions are violated and there is a  
13:37:35 23 conclusion that they have been violated and there is  
13:37:38 24 going to be a forfeit of the home, potentially, and the  
13:37:41 25 \$100,000 in cash, I think that is a significant risk

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13:37:47 2 that either this defendant or his father would be  
13:37:49 3 taking.

13:37:51 4 MR. COOPER: I understand. I appreciate the  
13:37:52 5 explanation about the condition.

13:37:55 6 THE COURT: Any other questions from the  
13:37:56 7 government?

13:37:56 8 MR. COOPER: No. Thank you, Judge.

13:37:57 9 THE COURT: Any other questions, Mr. Dell?

13:37:59 10 MR. DELL: No, your Honor.

13:38:00 11 THE COURT: Anything from probation? I want  
13:38:04 12 you to go on the record and state clearly what all of  
13:38:07 13 the conditions are. And, Mr. Roncone, it's important  
13:38:11 14 for you to listen to this, Mr. Roncone, you're not  
13:38:14 15 seniors, but Mr. Roncone, the father, Mr. Roncone, the  
13:38:18 16 defendant, it's important for you to listen to these  
13:38:21 17 because you're both going to have an obligation in this  
13:38:24 18 regard and you both are going to have a horse in this  
13:38:30 19 race, so to speak, if anything is not complied with. Do  
13:38:35 20 you understand?

13:38:35 21 THE DEFENDANT: Yes, your Honor.

13:38:36 22 THE COURT: And, Mr. Roncone, you  
13:38:37 23 understand?

13:38:39 24 DEFENDANT'S FATHER: When it comes to these  
13:38:41 25 phones like --

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13:38:42 2 THE COURT: Why don't you actually, you can  
13:38:44 3 come up to the podium here if you would like so I can  
13:38:47 4 hear you. Because it's important, especially if you're  
13:38:53 5 going to be a third-party custodian, I want to make sure  
13:38:56 6 you understand the conditions.

13:38:59 7 DEFENDANT'S FATHER: Yes, your Honor.

13:38:59 8 THE COURT: So tell me your first name.

13:39:04 9 DEFENDANT'S FATHER: James. There are old  
13:39:05 10 phones in the house, like all of the old phones that are  
13:39:11 11 in the house, they are all going, right?

13:39:15 12 THE COURT: You have a lot of old phones in  
13:39:16 13 the house?

13:39:17 14 DEFENDANT'S FATHER: From the kids growing  
13:39:19 15 up.

13:39:20 16 THE COURT: Officer Whitcomb?

13:39:21 17 PROBATION: I'll talk with his pretrial  
13:39:24 18 officer, but we'll make sure there is either no access.  
13:39:27 19 We can assist with removal from the residence.

13:39:30 20 DEFENDANT'S FATHER: Okay. They'll come and  
13:39:32 21 show me what has to go and everything?

13:39:34 22 PROBATION: Yes.

13:39:36 23 DEFENDANT'S FATHER: Yes, very good.

13:39:37 24 THE COURT: Any other questions?

13:39:38 25 DEFENDANT'S FATHER: No, ma'am.

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13:39:39 2 THE COURT: I'll have Officer Whitcomb read  
13:39:41 3 these conditions into the record and I'll first ask your  
13:39:44 4 son, but I want to ask you too if you have any questions  
13:39:48 5 afterward so make sure you listen when she reads these  
13:39:51 6 in.

13:39:52 7 PROBATION: And it's James Roncone, correct?

13:39:55 8 THE DEFENDANT: Yes, it is.

13:40:23 9 PROBATION: The conditions are as follows:

13:40:25 10 The defendant shall not commit any offense  
13:40:29 11 in violation of federal, state or local law while on he  
13:40:33 12 release in this case. He must cooperate in the  
13:40:35 13 collection of a DNA sample if the collection is  
13:40:37 14 authorized by statute. He shall immediately advise the  
13:40:41 15 Court, defense counsel, the U.S. Attorney and the U.S.  
13:40:44 16 Probation and Pretrial Services Office in writing before  
13:40:47 17 any change in address and telephone number. And he  
13:40:50 18 shall appear at all proceedings as required and shall  
13:40:54 19 surrender for service of any sentence imposed as  
13:40:57 20 directed.

13:40:58 21 It is further ordered that the release of  
13:41:00 22 the defendant is subject to the conditions below. He is  
13:41:04 23 placed in the custody of James Roncone, who agrees to  
13:41:08 24 supervise the defendant in accordance with all the  
13:41:12 25 conditions of release, to use every effort to assure the

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13:41:17 2 appearance of the defendant at all scheduled court  
13:41:20 3 proceedings, and to notify the Court immediately in the  
13:41:24 4 event the defendant violates any conditions of release  
13:41:28 5 or is no longer in the custodian's custody.

13:41:36 6 The defendant shall report to the pretrial  
13:41:38 7 services office within 24 hours of release and as  
13:41:42 8 directed thereafter. He shall execute a bond or an  
13:41:46 9 agreement to forfeit upon failing to appear as required  
13:41:49 10 the following sum of money or designated property, that  
13:41:52 11 being \$100,000 in real property secured by the father's  
13:41:56 12 residence, and \$100,000 cash. He is to surrender any  
13:42:02 13 passport or passport card to the Clerk of the Court, and  
13:42:05 14 to surrender any other international travel documents to  
13:42:09 15 the appropriate authorities. He is not to obtain a  
13:42:11 16 passport or any other international travel documents.  
13:42:16 17 His travel is restricted to the Western District of New  
13:42:19 18 York unless court permission is granted to travel  
13:42:22 19 elsewhere. He is to remain at a verifiable address as  
13:42:27 20 approved by pretrial services. He is to avoid all  
13:42:30 21 contact with co-defendants and defendants in related  
13:42:32 22 cases unless approved by pretrial services. He is to  
13:42:36 23 refrain from possessing a firearm, destructive device,  
13:42:39 24 or other dangerous weapon. He is to refrain from any  
13:42:42 25 use of alcohol. He is to refrain from any use or

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13:42:46 2 unlawful possession of a narcotic drug and other  
13:42:49 3 controlled substances defined in Title 21 U.S.C. Section  
13:42:53 4 802 unless prescribed by a licensed medical practitioner  
13:42:57 5 and/or any other mind-altering substances.

13:43:02 6 The defendant may not use or possess  
13:43:04 7 marijuana regardless of whether the defendant has been  
13:43:07 8 authorized to use or possess medical marijuana under  
13:43:11 9 state law. He is to submit to any method of testing  
13:43:14 10 required by the pretrial services office or supervising  
13:43:17 11 office for determining whether the defendant is using a  
13:43:20 12 prohibited substance. Such methods may be used on  
13:43:23 13 random frequency, including urine testing, the wearing  
13:43:27 14 of a sweat patch, a remote alcohol testing system,  
13:43:30 15 and/or any other form of prohibited substance screening  
13:43:33 16 and testing, including copayment. He is to participate  
13:43:37 17 in a program of inpatient or outpatient substance abuse  
13:43:38 18 and counseling approved by pretrial services. The  
13:43:41 19 defendant shall contribute to the cost of services  
13:43:43 20 rendered in an amount to be determined by the probation  
13:43:46 21 officer based on ability to pay or availability of  
13:43:49 22 third-party payments.

13:43:50 23 He is to refrain from obstructing or  
13:43:53 24 attempting to obstruct or tamper in any fashion with the  
13:43:55 25 efficiency and accuracy of any prohibited substance

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13:43:59 2 testing or electronic monitoring, which is required as  
13:44:03 3 conditions of release. He is to participate in one of  
13:44:06 4 the following location restriction programs and comply  
13:44:09 5 with its requirements as directed; that being home  
13:44:10 6 detention, meaning he is restricted to his residence at  
13:44:14 7 all times, except for employment, education, religious  
13:44:17 8 services, medical, substance abuse or mental health  
13:44:21 9 treatment, attorney visits, court appearances, court  
13:44:24 10 ordered obligations or other activities approved in  
13:44:28 11 advance by the pretrial services office or supervising  
13:44:31 12 officer.

13:44:32 13 He is to submit to the following location  
13:44:35 14 monitoring technology and comply with its requirements  
13:44:38 15 as directed, and that being GPS. He is to pay all or  
13:44:42 16 part of the cost of location monitoring based upon his  
13:44:45 17 ability to pay as determined by the pretrial services or  
13:44:48 18 supervising officer.

13:44:50 19 He is to report within 72 hours to pretrial  
13:44:53 20 services any contact with any law enforcement personnel,  
13:44:56 21 including, but not limited to, any arrest, questioning  
13:44:58 22 or traffic stop. He is to surrender his pistol permit  
13:45:03 23 to the appropriate authorities and he is not to obtain  
13:45:06 24 any new pistol permit. He shall participate in the  
13:45:12 25 computer internet monitoring program administered by the

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13:45:15 2 U.S. Probation office. The defendant must provide the  
13:45:18 3 U.S. Probation office advance notification of any  
13:45:20 4 computers, automated services or connected devices. The  
13:45:24 5 U.S. Probation office is authorized to install any  
13:45:27 6 application as necessary on computers or connected  
13:45:29 7 devices owned or operated. The defendant may be  
13:45:33 8 required to pay the cost of monitoring services at a  
13:45:36 9 monthly rate provided by the U.S. Probation office. The  
13:45:39 10 U.S. Probation Office shall randomly monitor the  
13:45:42 11 defendant's computers, connected devices and/or storage  
13:45:46 12 media. The defendant shall consent to and cooperate  
13:45:49 13 with unannounced examinations of any computer equipment  
13:45:52 14 owned or used by the defendant, including but not  
13:45:55 15 limited to retrieval and copying of all data from the  
13:45:59 16 computer's connected devices, storage media and any  
13:46:03 17 internal or external peripherals, and may involve  
13:46:07 18 removal of such equipment for the purpose of conducting  
13:46:10 19 a more thorough inspection.

13:46:12 20 And he is, the defendant is restricted from  
13:46:14 21 any association or membership with any motorcycle club  
13:46:18 22 or gang including but not limited to the Rare Breed  
13:46:23 23 Motorcycle Club and Outlaws Motorcycle Club. This means  
13:46:27 24 the defendant shall not pay dues, attend meetings,  
13:46:30 25 participate in mandatory runs or wear the clothing,

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13:46:33 2 colors, patch or insignia of any such club. Further,  
13:46:36 3 the defendant shall not attend functions sponsored by  
13:46:40 4 such clubs even if the function is open to citizens or  
13:46:43 5 the club.

13:46:44 6 The defendant must remove all insignias or  
13:46:46 7 emblems associating him with Rare Breed Motorcycle Club  
13:46:50 8 and Outlaws Motorcycle Club from his home, motorcycle,  
13:46:54 9 vehicles and other property.

13:46:56 10 In addition, page four of the order of  
13:46:58 11 setting conditions of the release advises of the  
13:47:01 12 penalties and sanctions of the foregoing conditions of  
13:47:04 13 release.

13:47:04 14 Judge. Would you like me to summarize the  
13:47:06 15 violations?

13:47:07 16 THE COURT: That would be helpful. Thank  
13:47:09 17 you.

13:47:09 18 PROBATION: Thank you. This states that a  
13:47:11 19 violation of any of the foregoing conditions of release  
13:47:15 20 may result in the immediate issuance of a warrant for  
13:47:17 21 his or her arrest or revocation of release, an order of  
13:47:20 22 detention and prosecution for contempt of court and  
13:47:23 23 could result in a term of imprisonment, a fine or both.  
13:47:26 24 The commission of a federal offense while on pretrial  
13:47:29 25 release may result in the additional sentence of a term

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13:47:32 2 of imprisonment which shall be in addition to any other  
13:47:35 3 sentence.

13:47:36 4 It is also a crime to obstruct a criminal  
13:47:39 5 investigation, tamper with a witness, victim or  
13:47:42 6 informant, to retaliate or attempt to retaliate against  
13:47:46 7 a witness, victim or informant or to intimidate or  
13:47:51 8 attempt intimidate a victim, juror, informant or officer  
13:47:55 9 of the court.

13:47:56 10 If after release, the defendant knowingly  
13:47:58 11 fails to appear as required by the conditions of release  
13:48:02 12 or to surrender for the service of sentence, he may be  
13:48:06 13 prosecuted for failing to appear or surrender. An  
13:48:09 14 additional punishment may be imposed which shall be in  
13:48:12 15 addition to the sentence for any other offense.

13:48:15 16 THE COURT: Thank you, Officer Whitcomb.

13:48:17 17 First of all, Mr. Dell, any questions about  
13:48:20 18 any of this?

13:48:20 19 MR. DELL: No, your Honor.

13:48:21 20 THE COURT: Mr. Roncone, can you confirm for  
13:48:23 21 me on the record that you understand all of those terms  
13:48:25 22 and conditions?

13:48:26 23 THE DEFENDANT: I understand, your Honor.

13:48:28 24 THE COURT: Do you have any questions for me  
13:48:30 25 or Mr. Dell?

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13:48:31 2 MR. DELL: No, your Honor.

13:48:32 3 THE COURT: Okay. And James Roncone, any  
13:48:35 4 questions that you have for me about any of these  
13:48:38 5 conditions and your obligation as a third-party  
13:48:42 6 custodian?

13:48:44 7 DEFENDANT'S FATHER: No.

13:48:44 8 THE COURT: Thank you. So in terms of the  
13:48:49 9 paperwork, I guess my question is about the property  
13:48:52 10 that is being posted, are we able to take care of that  
13:48:58 11 today or what is the situation in that regard?

13:49:01 12 MR. DELL: I know that the U.S. Attorney's  
13:49:03 13 Office has approved it.

13:49:08 14 THE COURT: Is that correct?

13:49:08 15 MR. COOPER: That is my understanding as  
13:49:10 16 well, Judge, that is the e-mail we discussed earlier  
13:49:12 17 from Ms. Reimen. I don't know what the next steps are  
13:49:17 18 involved in the office's approval; I'm not involved in  
13:49:21 19 that.

13:49:21 20 THE COURT: I guess I would like to have all  
13:49:23 21 of the paperwork executed right now. And there is an  
13:49:28 22 appearance bond that we'll need to fill out as well that  
13:49:32 23 will be secured by the property and it will have to be  
13:49:36 24 secured by the cash, but we can fill out the paperwork.  
13:49:39 25 And once that property is posted, then Mr. Roncone can

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13:49:45 2 be released. Right?

13:49:51 3 MR. DELL: Sounds right.

13:49:53 4 PROBATION: There is paperwork that the U.S.  
13:49:56 5 Attorney's Office has to provide, as far as I know. You  
13:49:59 6 mentioned the e-mail, but I think there is some sort of  
13:50:02 7 documentation that has to be provided that is  
13:50:08 8 unencumbered or no liens.

13:50:09 9 MR. COOPER: Sure. And I can check with Mr.  
13:50:11 10 Dell if the Court would indulge me.

13:50:14 11 THE COURT: I can step off the bench and  
13:50:16 12 maybe you can work on all of the paperwork and then I  
13:50:20 13 can come back out and we can execute everything.

13:50:22 14 MR. COOPER: That works, Judge.

13:50:24 15 PROBATION: Okay.

13:50:25 16 THE COURT: Thank you.

13:50:25 17 (Whereupon, there was a break in the  
13:50:25 18 proceeding.)

14:39:09 19 THE COURT: All right. We are back on the  
14:39:11 20 record. Note the presence of all counsel.

14:39:13 21 Mr. Roncone, I understand that all of the  
14:39:17 22 paperwork has been executed. I have in front of me an  
14:39:20 23 order setting conditions of release. Mr. Roncone, you  
14:39:24 24 can confirm that this is your signature here?

14:39:27 25 THE DEFENDANT: Yes, your Honor.

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14:39:28 2 THE COURT: And James Roncone, you've signed  
14:39:30 3 this as well?

14:39:32 4 DEFENDANT'S FATHER: Yes, your Honor.

14:39:32 5 THE COURT: All right. And then I also have  
14:39:34 6 the appearance bond with both the defendant's signature  
14:39:40 7 and James Roncone's signature as well. And we've  
14:39:44 8 received e-mails from the U.S. Attorney's office with  
14:39:47 9 the necessary paperwork and confirming that the property  
14:39:54 10 is sufficient to secure the \$100,000 and that the U.S.  
14:40:01 11 Attorney's Office will file the necessary lien with  
14:40:04 12 respect to it.

14:40:06 13 I think the, I guess, probation has also  
14:40:09 14 confirmed that Mr. Roncone can be outfitted with the  
14:40:12 15 electronic monitoring here at the courthouse and the  
14:40:15 16 jail, he will be transported back to the jail and they  
14:40:18 17 will not remove it. Correct?

14:40:20 18 PROBATION: That's correct, your Honor.

14:40:21 19 THE COURT: And the plan is if the \$100,000  
14:40:24 20 in cash is posted today, that Mr. Roncone will be  
14:40:27 21 released from the jail and probation would be able to do  
14:40:32 22 a home visit tomorrow morning.

14:40:35 23 PROBATION: That's correct, Judge.

14:40:36 24 THE COURT: Okay. And I guess we're not  
14:40:38 25 clear on the \$100,000 cash at this point.

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14:40:42 2 MR. DELL: We're trying to do that. The  
14:40:43 3 other gentleman that was here is my client's cousin and  
14:40:47 4 he also is on the savings account and he just walked to  
14:40:51 5 M&T Bank and he is trying to get a bank check made out  
14:40:56 6 to the clerk. He only has a couple of forms of I.D. and  
14:41:02 7 if they need three, he'll have to go back to Buffalo and  
14:41:07 8 do that.

14:41:07 9 THE COURT: I'm going to sign the appearance  
14:41:09 10 bond and today is the?

14:41:21 11 MR. COOPER: 21st.

14:41:24 12 THE COURT: And I'm also going to sign the  
14:41:26 13 order setting conditions of release.

14:41:36 14 Is that a thumbs up.

14:41:38 15 MR. DELL: Yes.

14:41:38 16 THE COURT: Good. And I think, Dawn, you  
14:41:44 17 need to sign the appearance bond as well.

14:41:47 18 THE CLERK: Thank you, Judge. All right.  
14:41:58 19 So I've executed the necessary paperwork and I think  
14:42:01 20 that takes care of everything. Once the cash is posted,  
14:42:04 21 it will have to be posted with the clerk's office  
14:42:07 22 upstairs on the sixth floor. And they'll need the  
14:42:10 23 paperwork and my courtroom deputy can help you with that  
14:42:14 24 once we conclude.

14:42:15 25 Anything else from the government?

1  
14:42:18 2 MR. COOPER: No, thank you, your Honor.  
14:42:19 3 THE COURT: Mr. Dell, anything else on  
14:42:20 4 behalf the defendant?  
14:42:21 5 MR. DELL: No, your Honor. Thank you.  
14:42:22 6 THE COURT: Anything else from probation?  
14:42:24 7 PROBATION: Nothing, Judge. Thank you.  
14:42:25 8 THE COURT: Thank you very much, everybody.

9  
10 \* \* \*

11 CERTIFICATE OF REPORTER

12  
13 I certify that the foregoing is a correct transcript  
14 of the record of proceedings in the above-entitled  
15 matter.

16  
17 S/ Karen J. Clark, RPR  
18 Official Court Reporter  
19

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